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**Mission Statement**

NAHC's mission is to support and educate existing and new cooperative housing communities as the best and most economical form of homeownership.

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# The Legal Hybrid of Housing Cooperatives

By Julie D. Lawton

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## What Is a Housing Cooperative?

A housing cooperative is a type of residential property, most common in New York, a little less in Chicago and Washington, D.C. Cooperatives are a form of residential property ownership that were first built in the United States in 1876 and were originally designed as luxury multi-family dwellings for the upper class who wanted higher-end living in the city without the expense and upkeep of a single family house. If you look at a housing cooperative, it often will look like a condominium - a multifamily building with common areas set aside for the use of the members of the cooperative. A major difference between a condominium and a housing cooperative is that an owner of a condominium owns the actual condominium unit, which means that person owns real property. A member of a housing cooperative does not directly own his or her cooperative unit, and, thus, does not directly own real property.

Housing cooperatives are formed as a corporation pursuant to state statute, solely for the purpose of owning and operating real property for its residents. The housing cooperative corporation owns multi-family property occupied by members of the housing cooperative. To become a member, a resident purchases shares in the coopera-

tive corporation providing them co-ownership in the cooperative corporation, and by extension, co-ownership in the real property owned by the cooperative corporation. In tandem with the purchase of the cooperative share, each resident executes a proprietary lease providing the cooperative member with the contractual right to reside in a specific unit of the real property owned by the cooperative corporation. The proprietary lease can be short term, such as 12 months, or long term, such as 99 years and represents the occupancy agreement between the resident and the cooperative corporation. As a member of the cooperative corporation that owns the real property in which the member resides, the member is also a co-owner of the property in which the member resides. This confluence creates the legal hybrid nature of housing cooperatives: a member is, at once, both a tenant of the cooperative corporation and a co-owner in the cooperative corporation. It is this dual nature that creates the legal conflict in trying to define the legal structure of the housing cooperative.

Members of housing cooperatives who violate, or are found in violation of, the housing cooperative's rules and regulations are subject to eviction; a consequence some may consider very harsh given the violation. The

member can be evicted from the home where he or she has lived for years and be stripped of the equity the housing cooperative member has invested into the housing cooperative. These consequences exist whether the member's violation is for non-payment of housing payments to the housing cooperative or because of some non-financial violation such as subletting the unit or refusing to allow inspections. This forfeiture of equity can occur even when the value of the member's equity is greater than the amount owed to the housing cooperative. This result occurs partly because courts, housing cooperatives and state and federal legislatures remain confused about the legal structure of a housing cooperative and the legal protections that should thus flow to housing cooperative members. These various constituencies divide over whether housing cooperative members are owners or renters. And, if housing cooperative members are owners, do they own real property or personal property?

Some courts, such as Arizona, designate housing cooperatives as ownership and specifically reject the idea of a housing cooperative as rental property. Other courts, such as Illinois, designate housing cooperatives as rental property and reject the argument that a housing cooperative is ownership. One juris-



diction, Georgia, noted that a housing cooperative could be designated homeownership or rental property by the language of the cooperative's corporate documents. Even the federal government added to the confusion. In an argument before the federal Tax Court, the IRS claimed that a housing cooperative was ownership property, not rental property. The Tax Court disagreed, holding that the residents of the housing cooperative were leaseholders, not owners of the housing cooperative real property. This section will review the conflict in case law and statutes on this issue.

## A. Judicial Findings of Landlord-Tenant Relationship

New York, Georgia, Illinois, California, and Maryland courts found that a housing cooperative is rental property.

### 1. New York

In the 1988 case of *Southridge v. Menendez* (Southridge Coop. Section. No. 3 v. Menendez, 535 N.Y.S.2d 299 (1988)), a housing cooperative sought to use the state's rental statutes to evict a housing cooperative member for violation of the member's proprietary lease raising the question of whether a housing cooperative member is an owner or a tenant. The court held that "the courts have long viewed the relationship between a cooperative corporation and a proprietary lease as that of landlord and tenant." Despite the "hybrid" nature of the cooperative member, the court held that "the proprietary lessee is nevertheless still fully a tenant."

### 2. Georgia

Georgia courts have twice held that housing cooperative members are not owners of property, but instead are leaseholders. In the 1974 Georgia state Supreme Court case of *Brandywine Townhouses v. Joint City* (Brandywine Townhouses v. Joint City-Cnty. Bd. of Tax Assessors, 203 S.E.2d 222 (Ga. 1974)), the court analyzed the legal structure of housing cooperatives in the context of determining whether housing cooperative members were entitled to the homestead exemptions granted them by the state legislature. In this case, the Georgia state legislature amended its homestead exemption statute to include in its definition of

"owner," a person who "holds under an occupancy agreement as stockholder of a nonprofit cooperative ownership housing corporation, which holds property, either as owner or under a 99-year lease, subject to a mortgage insured by the Federal Housing Administration..." The legislation was intended to make the state "homestead exemption applicable to property held under an occupancy agreement by a stockholder of a non-profit cooperative ownership housing corporation..."

When the Fulton County Board of Tax Assessors denied the homestead exemption to residents of the Brandywine housing cooperative, the residents sued for relief under the homestead statute. Rejecting the idea that housing cooperative residents are "owners," the court reviewed the constitutionality of the legislation and held that the Georgia legislature improperly granted homestead exemptions to residents who were not "owners." The court looked to the express terms of the Proprietary Lease which stated that "[t]he member expressly agrees that there exists under this Occupancy Agreement a landlord-tenant relationship . . . ." While the court recognized that "a member does possess some characteristics of ownership, the terms of the occupancy agreement also limit the rights of each member in many respects inconsistent with ordinary elements of ownership." Thus, according to the court, the "members of the cooperative, being tenants, cannot be regarded as owners . . . ." for purposes of the homestead exemption.

The 1994 case of *Jordan v. Placer Holder* (Jordan v. Placer Holding Co., 444 S.E.2d 112 (Ga. Ct. App. 1994)), the Georgia appellate court again analyzed the question of whether housing cooperatives were rentals or ownership. In this case, Georgia courts first faced the question of whether a housing cooperative could maintain a dispossessory action against a member for violation of the member's proprietary lease. The court agreed with the trial court that a landlord-tenant relationship existed. The court looked to "the express terms of the occupancy agreement signed by the parties which authorizes the cooperative to terminate the member's right to occupancy under the agreement in the event a member fails to pay the cooperative fees . . . ." The court also recognized the financial inter-

dependency of the housing cooperative members, noting that without access to summary dispossessory proceedings, a defaulting member could adversely affect not only the housing cooperative, but also the member's "innocent neighbors."

### 3. Illinois

There has also been conflict within Illinois courts on the question of whether a housing cooperative is real property, personal property or a rental. In the 1953 case of *Brothers v. McMahon* (Brothers v. McMahon, 115 N.E.2d 116 (Ill. App. Ct. 1953)), housing cooperative members sued the developers of their housing cooperative claiming violation of the Illinois securities laws. The court initially held that the sale of a cooperative share was a sale of real property. Yet 30 years later in the 1983 case of *Sinnissippi v. Hubbard* (Sinnissippi Apartments, Inc. v. Hubbard, 448 N.E.2d 607, 610 (Ill. App. Ct. 2d Dist. 1983)), the court held that a housing cooperative, when set up in the manner of "the usual cooperative apartment organization," is rental property, not real property because a housing cooperative creates a landlord-tenant relationship between the cooperative and the cooperative member. In describing a usual cooperative apartment organization, the court relied heavily on 1 American Law of Property, which describes such an entity as follows:

Shares of stock . . . are sold to persons who will occupy the housing units, the number of shares . . . depending on the value of the particular apartment or unit. 'Proprietary' leases are issued by the corporation to the shareholders. These leases contain provisions common to other leases . . . Rent, which is subject to being increased or decreased, is based upon estimates of amounts necessary to pay operational costs and interest and installments of principal on any capital indebtedness. Other provisions include covenants against assignment without the consent of the board of directors of the corporation, that the tenant will make inside repairs but no structural changes, and that the corporation may forfeit the lease for breach of various of the covenants or violation of the rules of conduct established by the corporation. (citing 1 American Law of Property § 3.10, at 199-200 (1952))

The court noted that the relationship between a housing cooperative and a member, while being a "legal hybrid," was determined by a review, in totality, of the cooperative's corporate and incorporating documents.

Less than 10 years later, in *Central Terrace v. Martin* (Central Terrace Coop. v. Martin, 569 N.E.2d 944 (Ill. App. Ct. 2d Dist. 1991)), the Illinois appellate court again opined on the legal structure of a housing cooperative. In this case, a housing cooperative found a member in violation of his proprietary lease, then terminated his proprietary lease and sought to evict the member pursuant to the state's rental property eviction laws. The trial court held that the housing cooperative could pursue an eviction action pursuant to the state's rental property laws because "a landlord tenant relationship was created by the Cooperative lease agreement." The appellate court disagreed with the trial court by holding that this housing cooperative, because it was not the "usual cooperative" structure described in its previous *Sinnissippi* case was ownership property, not rental property. Accordingly, the housing cooperative could not avail itself of the state rental property laws to evict the member from his unit. This housing cooperative was different from the "usual cooperative" in many ways. First, the housing contract between the parties was not a "cooperative lease agreement" or a "proprietary lease agreement" but instead was titled a "Mutual Ownership Contract." This housing cooperative's "Mutual Ownership Contract," unlike a proprietary lease, did not refer to the resident as a "lessee" or a "tenant," but referred to the resident as a "member." The Mutual Ownership Contract entitled the cooperative member to perpetual use of the housing cooperative unit instead of the more common shorter period of 12 or 36 months. The agreement further provided that "perpetual use of each particular dwelling shall be delivered by the corporation to the member in the form of a membership certificate." And, this housing cooperative's bylaws stated that the purpose of the housing cooperative was to own residential property, not lease it. The totality of the cooperative documents and the "man-

ifest weight of the evidence” demonstrated that the housing cooperative sought to give “possessory rights to its members based on ownership interests not lease agreements.”

The Illinois Appellate court’s rulings on housing cooperatives are a clear example of the challenges of defining the legal structure of a housing cooperative. Over the course of a number of years, the court had held that housing cooperatives were rental property, ownership of real property and ownership of personal property. Ultimately, six years after its ruling in *Central Terrace*, in the 1997 case of *Quality Management Services v. Banker* (Quality Mgmt. Serv., Inc. v. Banker, 685 N.E.2d 367 (Ill. App. Ct. 1st Dist. 1997)), the court clarified that “usual” housing cooperatives in Illinois are rental property. The *Central Terrace* decision only stood to hold that when the manifest weight of the evidence shows that there is an ownership interest, that the Illinois courts cannot create a landlord-tenant relationship. However, according to the court, “in the usual situation, the relationship between a cooperative and its members is, in part, that of landlord and tenant.” The *Central Terrace* case allowed housing cooperatives, if so designed, to avoid creating a landlord-tenant relationship subject to the state’s eviction statute. However, the *Quality Management* decision confirmed that the “usual” housing cooperative in Illinois, despite the “legal hybrid” ownership of a housing cooperative share, creates a landlord-tenant relationship.

#### **4. California**

California is another state whose courts have held that housing cooperatives membership creates a landlord-tenant relationship. In the 1982 case of *Martin v. Villa Roma* (Martin v. Villa Roma, Inc., 182 Cal.Rptr. 382, 382 (Cal. Ct. App. 1982)), a housing cooperative terminated a resident’s membership and sought to evict her from her unit. The bylaws of the housing cooperative, which was formed pursuant to the National Housing Act, restricted the resale of the cooperative shares to persons whose income was at, or below, a certain level and restricted the resale price to a predetermined formula set forth in the bylaws. These types of housing cooperatives are frequently called limited equity cooperatives and are designed to preserve

affordable housing. (See generally Julie D. Lawton, *Limited Equity Cooperatives: The Non-Economic Value of Homeownership*, 43 WASH. U. J.L. & POL’Y 187 (2013)). The member argued that she was not a tenant of the housing cooperative, but an owner of real property with the right to sell her unit at market value, despite the restraint on resale. This court chose to follow the express terms of the proprietary lease which stated that the relationship was that of a landlord-tenant and not that of ownership of real property resulting in the court determining that the housing cooperative member was a tenant of the housing cooperative, not an owner.

#### **5. Maryland**

Under Maryland state law and Maryland’s Office of Attorney General (“OAG”), housing cooperatives are also considered rental property in Maryland as well. In 2000, the OAG, in reviewing a case of jurisdiction for the Maryland appellate court (Cooperative Housing: Eviction of Lessee from Cooperative Dwelling Unit Is Landlord-Tenant Proceeding, 85 Op. Md. Att’y Gen. 265, 267 (2000)), opined that “[t]here is no doubt that a membership in the [housing cooperative], together with the related leasehold interest in a dwelling unit, constitutes a property interest.” This position is supported by a Maryland statute that qualifies proprietary leases as creating “a legal relationship of landlord and tenant between the cooperative housing corporation and the member....”

### **B. State Judicial Findings of Ownership**

#### **1. New York**

In the 1971 case, *Silverman v. Alcoa Plaza* (Silverman v. Alcoa Plaza Assocs., 37 A.D.2d 166 (N.Y. App. Div. 1971)), the New York State Supreme Court held that a cooperative share is personal property. A buyer entered into a purchase contract for the purchase of a share in a housing cooperative and paid a down payment to the seller. When the buyer defaulted on the purchase contract, the seller kept the down payment claiming the deposit as forfeited. The seller eventually found another purchaser for the cooperative share and the defaulting buyer sued for return of the down payment. The



seller claimed the buyer breached a contract for the sale of real property and thus forfeited the down payment. The defaulting buyer countered that the contract was for the sale of personal property, not real property, and, thus, the seller was only entitled to actual damages pursuant to a breach of contract claim. The lower court held that the housing cooperative stock was not a “good” under Article 2 of the UCC, but was real property. The appellate court disagreed stating that “[i]t is clear that the intentions of the parties to this contract were to treat this as a contract for the sale of personalty and not real property.” The court continued,

It thus appears that a proprietary lease is no different from any other type of lease. It is personal property. Co-operative apartment stock is nevertheless stock, like any other stock in a corporation owning real estate. It does not appear that the pairing of the two together does anything to create a new classification of real estate.

The court held that housing cooperative stock relative to the proprietary lease are goods under Article 2 of the Uniform Commercial Code.

## 2. Ohio

In the 1984 case of *Kohler v. Snow Village* (Kohler v. Snow Vill., Inc., 475 N.E.2d 1298, 1301 (Ohio Ct. App. 1984)), an Ohio court ruled that housing cooperatives, while “something of a hybrid between renting and owning,” are more ownership property than rental property and that housing cooperatives could not avail themselves of the state’s rental property laws to evict a defaulted member. In *Kohler*, the court determined that housing cooperatives are more ownership based on the purpose of the cooperative member’s housing payments, the duration of the cooperative member’s tenure in the cooperative unit, the cooperative member’s joint responsibility for the mortgage payment and property taxes and the capital gains tax applied to the sale of the cooperative share. Ultimately, the court found that “[w]hile there are characteristics of a cooperative apartment which resemble those of a standard rental apartment building, there are such significant differences that cooperatives clearly do not fall within the intent and purpose” of the

state’s rental housing laws and held that housing cooperatives are not rentals.

## 3. Michigan

One year following the Ohio case, a Michigan appellate court also found that a housing cooperative is not rental property subject to the state’s rental property laws. In the 1985 case of *Penokie v. Colonial Townhomes Cooperative* (Penokie v. Colonial Townhouses Coop., Inc., 366 N.W.2d 31, 32-33 (Mich. Ct. App. 1985)), a former housing cooperative member sued for monies paid to become a member of the housing cooperative, claiming those monies returnable pursuant to Michigan’s rental property laws. Here, the definition of “rental unit” in the state rental property statute was important for the court’s finding that a cooperative unit is not a rental unit as defined in that statute. The case suggests that housing cooperatives are subject to eviction proceedings pursuant to the Michigan evictions statutes: MICH. COMP. LAWS § 600.5701(b) (1972); § 27A.5701(b)). There was also a conflict of the definition of “tenant” in that statute. As the court points out, as a resident in a cooperative and an owner of the housing cooperative share, the resident could simultaneously be considered a tenant and a landlord, despite the fact that legal title to the property is in the name of the cooperative. The housing cooperative membership, thus, made the member more of a landlord than a tenant. Of additional importance was the cooperative member’s ability to participate in management of the housing cooperative as well as the member’s right to financial value from the housing cooperative membership that would not have existed were the member only a renter. Because of this quasi-landlord status, the court determined that the housing cooperative member was not a tenant subject to the state’s rental property statute.

## 4. Arizona

Twelve years following the Michigan case, the Arizona appellate court issued one of the strongest rulings arguing that housing cooperatives are not rental properties, but are ownership properties. In the 1997 case of *Kadera v. Superior Court* (Kadera v. Superior Court, 931 P.2d 1067, 1070 (Ariz. Ct. App. 1996)), the court evaluated the relation-

ship between a housing cooperative member and a low-income housing cooperative sponsored by the federal Department of Housing and Urban Development (“HUD”) (this case is of note because HUD dictated the terms of the proprietary lease reviewed by the court). The express terms of the proprietary lease, dictated by HUD, specified that the relationship between the housing cooperative and the member was that of a landlord and tenant. The court disagreed, holding that not only was the relationship not that of landlord-tenant, but that the housing cooperative member owned a real property interest. In Arizona, the express terms of the Arizona Residential Landlord Tenant Act specifically excluded housing cooperatives from its purview.

The court recognized the legal hybrid nature of housing cooperatives, but it also recognized the member’s real property interest pursuant to the member’s ownership in a corporation that owns real property. According to the court, “[t]he legislature recognized that although the cooperative is a hybrid property arrangement wherein the line between ownership and leasehold blurs, the cooperator has a real property interest.” While the individual member may not directly own real property, ownership of the property through the housing cooperative corporation provides the cooperative member a “real property interest.” It was not necessary that “title pass in order for [the cooperative member] to have a real property interest.” In fact, the court recognized that “[p]roperty does not necessarily refer to a physical object itself but to certain rights over the physical object . . .” and includes the right to possess, use and dispose of the property. Other indicia of ownership are also important indicators, including the member’s payment of a down payment, execution of a purchase and sale contract and the member’s obligation to pay carrying charges that are used to pay the housing cooperative’s mortgage payment and joint operating costs. Arizona is one of a very few jurisdictions to conclude that not only are housing cooperatives not rental properties or even ownership of personal property but ownership of real property.

### **C. Federal Finding of Ownership**

The Internal Revenue Service (“IRS”) also recognizes housing cooperative membership as home-

ownership and not a rental. In a Revenue Ruling issued in 1955 (Rev. Rul. 55-316, 1955-1 C.B. 312), the IRS was asked to evaluate whether certain members of a specially designed housing cooperative qualified for the mortgage interest and real property tax deduction. The IRS recognized that “[p]erpetual use of and equity in an apartment or the proprietary lease of an apartment, coupled with membership in the corporation, is the equivalent for practical purposes of ownership of an apartment.”

### **D. State Judicial Findings of Neither Rental nor Ownership**

#### **1. Washington, D.C.**

In the 1989 case of *Snowden v. Benning Heights Cooperative* (Snowden v. Benning Heights Coop., 557 A.2d 151 (D.C. 1989)), Washington, D.C. became one of a few states to allow housing cooperatives to exist in the gray area between rental property and ownership. While recognizing that housing cooperatives are not rental units, the court did not go so far as to hold that housing cooperatives are ownership. In this case, a housing cooperative sought to evict co-members for violation of the members’ proprietary lease. The members countered such an eviction action was invalid be-

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**“Courts, housing cooperatives and state and federal legislation are... divided over whether...housing cooperative members are owners or renters.”**

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cause the members were not provided a 30-day eviction notice required for rental units under the state rental property laws. To support their argument, the members relied on the specific language in their proprietary lease that stated that the relationship between the housing cooperative and the cooperative member was that of landlord-tenant.

In this case, while the housing cooperative had some aspects of a landlord-tenant relationship, “the member owns shares in the cooperative, making the member a co-owner of the property along with

the other members;” this co-ownership prevented housing cooperatives from being subject to the state rental housing statute. Because a housing cooperative unit is not a “rental unit” as defined in the state rental property statute, the statute did not apply. Further, the state’s rental housing commission, the state agency charged with administering the local rental-housing act, specifically rejected any jurisdiction over a conflict between a housing cooperative and its members.

In a subsequent case in 1992, the same court reaffirmed its position that housing cooperatives are not rental units subject to the state rental property laws because of the co-ownership aspect of the housing cooperative (*Capital Constr. Co. v. Plaza West Coop. Ass’n*, 604 A.2d 428, n. 4 (D.C. 1992)). According to the court, “[a]lthough individual apartment occupants are ‘tenant[s] in some respects,’ leasing their apartments from the legal owner, the cooperative association, the ‘tenants’ own shares of the cooperative and hence are proportionate co-owners of the property. For that reason their apartments are not treated as ‘rental units’ under the D.C. Rental Housing Act.”

## 2. New Jersey

In 1991, the New Jersey Supreme Court also found that housing cooperatives were neither rentals nor ownership property, but a hybrid form that straddles the two. In *Drew Associates v. Travisano* (*Drew Assocs. of NJ, LP v. Travisano*, 584 A.2d 807 (N.J. 1991)), the developer of a new housing cooperative challenged the constitutionality of the New Jersey Cooperative Recording Act, a state statute creating a title registration system for recording and taxing the creation and transfer of cooperative housing shares. Previously in New Jersey, and is almost universally the case, transfers of housing cooperative shares was an entirely private transaction without public record. In creating this cooperative title registration system, the legislature amended the definition of “deed” to include housing cooperative proprietary leases. The legislative intent was to treat the “creation and transfer of an interest in cooperative-housing units in much the same manner as any other interest in real estate . . .” The state legislature recognized that the sale of a housing cooperative share “is a hybrid transac-

tion which is not capable of classification entirely as realty or personalty.” However, the Legislature gave weight to the public’s perception that the purchase of a housing cooperative share “in some manner involves real estate” and, thus, gave protections “similar to those protections available in transactions for the purchase of real estate.” While the court and legislature did not find that housing cooperatives are solely, or even primarily, like real property, the similarities and the public perception of the similarities were such to warrant protections to the public even while leaving housing cooperatives in the undefined middle between rentals and ownership.

## 3. Indiana

In the 1999 case of *Cunningham v. Georgetown Homes, Inc.* (*Cunningham v. Georgetown Homes, Inc.*, 708 N.E.2d 623, 625. (Ind. Ct. App. 1999)), the Indiana appellate court also found that housing cooperatives are legal hybrids. In this case, the proprietary lease specified that the legal relationship between the housing cooperative and the cooperative member was that of landlord-tenant. Despite this agreement, other provisions in the proprietary lease indicated more of an ownership relationship. For example, the proprietary lease contained provisions that were not included in a typical residential lease, but rather were indicative of an ownership interest. The proprietary lease required the resident to pay carrying charges that included the resident’s “share” of the mortgage on the property, instead of paying “rent.” In the event of a fire, if the housing cooperative did not rebuild the property, the housing cooperative would buy the member’s membership and reimburse the member for her loss; a right not extended to renters. The member had a responsibility for maintaining the expenses for her unit, including the decorating, repairs and maintenance needed, a responsibility rarely born by a tenant.

Ultimately, this court found these indicia of ownership so extensive that it was unwilling to conclude the housing cooperative is rental property. This court, like other courts, recognized the legal hybrid nature of housing cooperatives and stated, “[T]he cooperative member] is neither the owner of the real estate nor is she a tenant of the [cooperative corporation]. [The cooperative member] is

an owner of personal property . . .”. However, the court placed such value on the ownership portion of the hybrid nature that it held that courts cannot terminate the ownership interest portion of the legal hybrid of a housing cooperative share simply by a finding of a breach of the proprietary lease as had happened in many other jurisdictions. This court recognized that the cooperative member’s ownership rights to the cooperative share could not be forfeited simply by finding that the cooperative member breached her proprietary lease. It made the argument that a cooperative member’s ownership interest, or at least its corresponding financial value, cannot be eliminated simply by a termination of an individual’s cooperative membership, even if the protection of such value is accomplished through a judicial forced sale of the cooperative share.

### Conclusion

This overview is not designed to provide an in-depth analysis of the legal issues surrounding whether a housing cooperative is personal property, rental property or real property – for a more in-depth analysis, please see the full text of this article, *Unraveling the Legal Hybrid of Housing Cooperatives*, 83 UMKC L.Rev. 117 (2015). This excerpt is designed to offer a brief compilation of the more influential judicial and regulatory opinions addressing this question.

The question, for the foreseeable future, will continue to be debated amongst cooperative members, the judiciary, legislatures and policy makers.

*This article is an excerpt of a previously published article, Unraveling the Legal Hybrid of Housing Cooperatives, 83 UMKC L. Rev. 117 (2015). Lawton sincerely thanks Amanda Roenius for outstanding research assistance, editing and review and grants CHJ permission to reprint this article.*



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# Cooperatives: Leadership with a Difference

*Consensus is the goal, but can be a long process*

By Bruce J. Reynolds

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Leadership is essential for guiding organizations to fulfill the mission of their stakeholders. The necessity of strong leadership especially comes to the forefront during times of major industry change or stakeholder conflict. When leaders successfully guide their organizations through turmoil, the imprint of leadership is unmistakable. Even during times of “business-as-usual,” business leaders must prepare their organizations to avoid crises and to keep up or move ahead of their competitors.

The stakeholders of a business are usually defined as the investor-owners, employees and customers. Cooperative stakeholders are members who have an ownership stake in the business, but who are also stakeholders as customers or producers with the latter being either as suppliers of products or of labor services. Many cooperatives do a substantial amount of business with non-member stakeholders.

Democratic governance of a cooperative business by member stakeholders presents a unique challenge for its leaders. The leaders of cooperatives try to make decisions with a consensus of the membership, which differs from decision-making in hierarchically controlled businesses. Still, member consensus does not mean putting all decisions to a referendum.

Jim Kiley, former manager of the Sioux Valley Southwestern Electric Cooperative emphasized this point when he accepted a leadership award from the National Rural Electric Cooperative Association in 1998. “One thing I learned from the many fine people I’ve been privileged to know in this business is that leadership doesn’t come from entitlement or consensus — it comes from taking advantage of opportunities,” Kiley said. “It comes from the application of sound principles in pursuit of long-term goals.”

His comment seemed to me, at the time, to be dismissive of consensus. But in retrospect, I appreciate his message that individual responsibility to lead must not be crowded out by the opinions of the membership. Members have a voice in their cooperative, but their views are not the last word on many decisions.

For example, member consensus might be to carry a line of unprofitable branded products at farm supply stores or at food cooperatives that take-up shelf-space and gradually erode earnings.

Kiley’s belief that consensus does not control leadership can be contrasted with leadership in hierarchically managed businesses where there is scant need for such concerns.

The challenge of leadership of a cooperative is not to simply follow a consensus but to listen to members and to carefully weigh their needs when determining the best direction for the business to prosper. This ability requires special skills and experience.

The [Graduate Institute of Cooperative Leadership](#), established at the University of Missouri in 1972, has recognized this differing approach to leadership in its training programs for cooperative leaders. Many other training programs have likewise been established to fill a void in standard leadership training curriculums that do not address the importance of working with a cooperative membership.

## Tasks Differ for Cooperative Managers and Directors

Managers and directors in cooperatives each have leadership roles that do not overlap. Managers are leaders of cooperatives, not just in overseeing operations but in understanding industry changes and in advising the directors on strategic positioning and planning.

Managers need to identify if, and when, “business-as usual” is becoming less sustainable. This type of complex foresight is not usually developed by a manager without interaction with others.

Managers need to maintain a strategic dialogue with staff and directors and sometimes with outside consultants. If major changes for the business are recommended, managers are responsible for articulating and planning new directions.

A board of directors in any type of organization has governance functions and fiduciary duties. Ann Hoyt of the University of Wisconsin-Madison points out that in a cooperative, there is an added dimension of linkage between the directors and the member-stakeholders. Directors are responsible for communicating with members about policies and upcoming decisions. Two-way communication is needed with directors being available to receive feedback from members.

Members often hold different points of view on whether their cooperative should consider changes and, if so, what those changes should be. Directors need the skill to use member input to improve decision-making while preventing diverse views from becoming a source of divisiveness.

### **Member Responsibilities**

James Wadsworth of Cooperative Programs at the U.S. Department of Agriculture argues that members of a cooperative have a responsibility to be informed about policies, bylaws and operations. Member knowledge of operations includes having a basic understanding about the industry and awareness of trends and strategies.

Members are more than passive “yea or nay” responders to leadership initiatives. The meaning of consensus for a cooperative is that it is a process, often starting from a point where members may have divergent views but lack sufficient information on what the cooperative should do. As more discussion and information is shared, management and directors can consider member views in developing plans for keeping their cooperative vital and growing.

### **Building Consensus**

Cooperative leadership involves effective communication with an informed membership. Members are neither followers nor obstructionists. They are an important part of decision making in that they must understand how the cooperative operates and why it has to address changes in its industry.

While the manager needs foresight to identify impending changes, the directors work to make such strategic changes appropriate for the cooperative and understood by members. Leading a cooperative is a multi-faceted enterprise, and successful leadership is usually not the exclusive accomplishment of one person.

Consensus is often regarded as the prevailing view of a group. In a cooperative, consensus provides the cohesiveness for members to want to continue their membership. At any point in time, a member consensus may not reflect what a cooperative needs to do for economic survival. When management and directors see a need for change, an important part of their leadership is building a consensus for major decisions to be made.

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*Bruce J. Reynolds is an economist at Cooperative Programs for the U.S. Department of Agriculture Rural Development in Washington, D.C.*

# The Mutual Housing Experiment Yields Affordable Homes for the Middle Class

By Kristin M. Szylvian

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*Author's Note: The term, "mutual housing," has undergone a number of shifts since Col. Lawrence Westbrook of the U.S. Federal Works Agency first used it in 1940. When researching and writing "The Mutual Housing Experiment," Professor Kristin Szylvian used the terminology that existed at the time. As indicated by Elsie Danenberg in "Get Your Own Home the Co-operative Way" during the 1940s and 1950s, federal housing officials, such as Florence Parker of the Bureau of Labor of the U.S. Department of Labor, drew a distinction between housing cooperatives that were privately initiated and those that were started by the residents of former New Deal and World War II housing developments. During the 1960s and 1970s after the residents paid off the mortgages they were extended, the Public Housing Administration gradually started calling them cooperatives and curtailed the use of the term, "mutual."*

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Cooperative housing has many unsung heroes and heroines. During the administration of President Franklin D. Roosevelt, Lawrence Westbrook (1889 to 1964) developed and implemented programs that promoted producer and consumer cooperatives as part of the New Deal program of "relief, recovery, and reform." Westbrook organized cotton marketing cooperatives in his native Texas before he began directing the Texas Relief Commission in 1933. He obtained a loan from the Federal Emergency Relief Administration (FERA) to develop a cooperative farm community named Woodlake for relief recipients who wanted to provide for themselves in the countryside. An 11-minute motion picture documentary named "*The Frontier*" told the story of one of Woodlake's first homesteaders, an unemployed Houston book keeper.<sup>1</sup>

Impressed with Woodlake, the National Relief administrator invited Westbrook to Washington, D.C. in early 1934 and appointed him director of the FERA's Division of Rural Settlement and Stranded Populations. In this capacity, he su-

pervised the development of an additional 27 cooperative "rural resettlement" communities loosely modeled on Woodlake.<sup>2</sup> From 1936 to 1937 as assistant director of the Works Progress Administration, Westbrook developed a suburban community named Westacres outside of Pontiac, Mich. for a nonprofit corporation that sold the homes to automobile workers on a lease-to-own basis.<sup>3</sup>

In 1940 with mobilization underway and a shortage of housing threatening to create bottlenecks in wartime production, Westbrook joined the staff of the Federal Works Agency (FWA). His attention was now focused on the urban, "middle-income" defense worker trapped in the "no man's land of housing," where homeownership was not feasible—at least for the duration—and rental options were few.<sup>4</sup> Shortly after Congress passed the Lanham Act appropriating funds to ameliorate the housing crisis, Westbrook proposed that defense housing be leased and later sold to non-profit "mutual" housing corporations created by the residents. Westbrook explained that he substituted the term "mutu-

al" for cooperative because his housing plan was inspired by the mutual insurance business. More than likely, larger political considerations were also at work, and Westbrook wanted to draw an ideological distinction between the New Deal and defense housing programs.<sup>5</sup>

Westbrook proposed his mutual home ownership plan at roughly the same time that John Green, the founder and president of the Congress of Industrial Organizations (CIO)'s Industrial Union of Marine and Shipbuilding Workers of America, was in Washington, D.C., seeking housing aid for his shipbuilding workers. Convinced that buying a new house in an inflated wartime commercial market was too financially risky for most defense workers, Green proposed that Lanham funds be used to build cooperative housing.<sup>6</sup>

Westbrook met with Green and together, they revised and refined the mutual home ownership plan. The two shared personal connections to leading architects and planners and were proponents of "community modernism," favoring residential communities that cultivated a sense of belonging and iden-

tity among residents through the provision of educational, recreational and commercial facilities.<sup>7</sup> Westbrook and Green agreed that the mutual home ownership plan's first feasibility test should take place at Audubon Village (now Park) on the outskirts of Camden, N.J., home of the Shipbuilding Workers' union and the New York Shipbuilding Corporation. Seven other cities and towns in New Jersey, Pennsylvania, Ohio, Indiana and Texas where the CIO was making inroads in organizing defense plant workers were selected as the host communities for the other pilot projects.

Westbrook and Green believed that support for mutual home ownership was most likely to take root among middle-income defense workers if it was combined with a new, more leisure and consumer-oriented life style. Audubon Village and her seven sister communities featured new concepts in site planning, modern architecture and mass production building methods. Joseph N. Hettle and Oscar Stonorov, architects whose ties to organized labor and the federal public housing program predated the war, designed the 499-unit Audubon Village. The Park Living concept, developed by architect Richard J. Neutra, inspired the development's site plan. A series of footpaths connected clusters of dwelling units and public buildings facing an interior park, confining automobile traffic to an exterior ring road and cul-de-sacs.

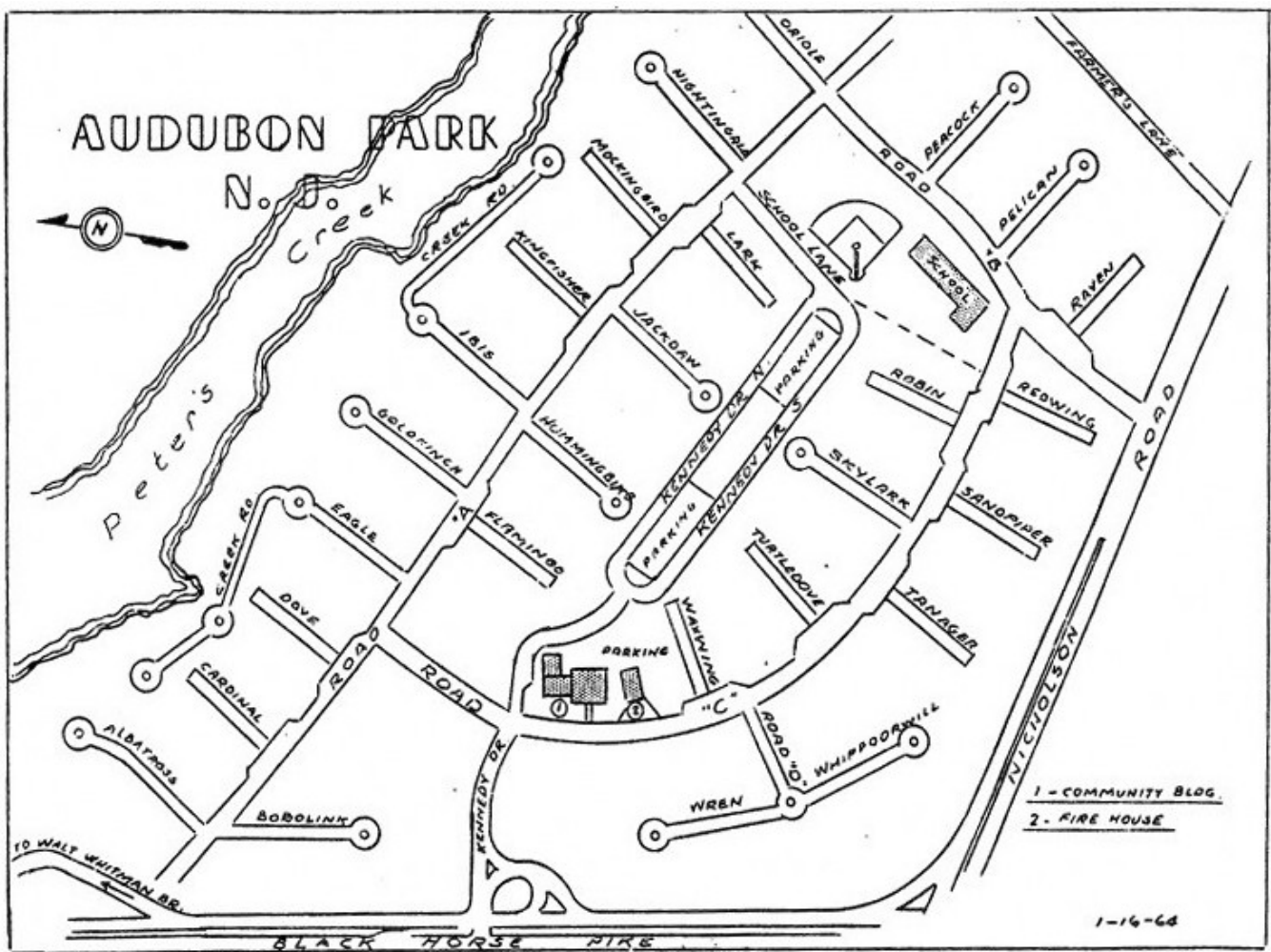
Roscoe DeWitt, a local architect who worked in collaboration with FWA staff architect David R. Williams and Richard J. Neutra, designed Audubon Village's sister community, Avion Village in Grand Prairie, Texas. North American Aviation Corporation and naval air station workers occupied most of the 300 dwelling units. Both Audubon Village and Avion Village captured national attention for the use of prefabricated housing. On May 16, 1941, local, state and federal government officials, defense industry leaders, a *Life* photographer and newspaper reporters converged on Grand Prairie for a build-a-house-in-an-hour contest that Westbrook organized. The purpose of the publicity stunt was to showcase how the administration was successfully incorporating prefabricated housing into the defense program.<sup>8</sup>

## Doing Research on New Deal Era Cooperative Communities

President Franklin D. Roosevelt's New Deal advisers envisioned a central role for producer and consumer cooperatives in helping communities achieve economic and social stability. Paul K. Conkin, *Tomorrow a New World: The New Deal Community Program*, (Ithaca: Cornell University Press for the American Historical Association, 1959) examines the cooperative communities built by the United States Department of the Interior, Division of Subsistence Homesteads and the Federal Emergency Relief Administration's (FERA) Division of Rural Resettlement and Stranded Populations in 1933-1934, the Resettlement Administration in 1935-1936 and the Farm Security Agency from 1937 until 1943. For more on FERA and Lawrence Westbrook, see: Westbrook, "The Program of Rural Rehabilitation of the FERA," *Journal of Farm Economics*, 17 (February 1935): 89-91 and Westbrook, "Getting Them Off Relief," *Proceedings of the National Conference on Social Work*, (Chicago: University of Chicago Press, 1935), 621. On the influence of Woodlake, the Trinity County, Texas farm community improved by Westbrook and architect David R. Williams for FERA, see: "Architects Lay Plans for Texas Farm Colonies," *Los Angeles Times*, January 21, 1934: D8; Michael Glen Wade, "David Reichard Williams: AvantGarde Architect and Community Planner, 1890-1962," (Ph.D. Dissertation, University of Southeastern Louisiana, 1978); and James Terry Booker, "The Woodlake Cooperative Community: A New Deal Experiment in Rural Living for the Unemployed," (Master of Arts Thesis, Texas A&M University, 1976). Researchers seeking more published information about consumer or producer cooperatives established by New Deal agencies should consult print or digital versions of the *Monthly Index of Government Publications*.

The cooperatives established by New Deal agencies and programs were launched in instances before all of the details—legal, financial, and administrative—were in place. Many were undercapitalized; some suffered from the lack of system of support or oversight. As a result, it is difficult to find information about specific cooperatives. The Department of Labor's Bureau of Labor Statistics, the Department of Agriculture, the Department of the Interior and the aforementioned agencies published numerous articles and pamphlets to help guide cooperatives. Federal interest in cooperatives has waxed and waned for decades, and this is clearly evident in the literature. If venturing beyond the mountain of federal government published literature into the unpublished realm, consider visiting the web site of the National Archives and Records Administration (NARA). There is relevant material in both the Archives II facility at the University of Maryland as well as the Presidential Libraries. The records of the agencies that established cooperative communities during the Roosevelt administration are not digitalized, but finding aids to the records should be available on line.





Architect Burns Roensch of the Federal Works Agency devised the site plan for Audubon Village (now Park). Architect Richard J. Neutra created the plan that was inspired by the one for Park Living Colony. Site plan courtesy of Audubon Mutual Housing Corporation.





*Bellmawr Park is a 500-unit community located in Camden County, N.J. The Federal Works Agency built one of the original eight pilot projects in 1941. The community features wood and brick veneer one and two-story buildings. The construction and more recently, the widening of U.S. 195 has placed Bellmawr Park at risk. Photo by Michael J. Chiarappa.*

Westbrook was in the process of bringing the eight pilot projects to completion and setting them on the path to mutual ownership when the bureaucratic axe fell. On February 24, 1942, less than two months after the United States entered the war, President Roosevelt ordered the reorganization of the entire federal housing bureaucracy. More than a dozen war housing agencies and programs, including Westbrook's mutual housing program, were consolidated under the Federal Public Housing Authority (FPHA). Westbrook interpreted the sweeping housing reorganization plan as an indication of a shift in President Roosevelt's economic and political priorities regarding housing and community development. The earlier New Deal emphasis on housing as an area of reform had given way to a new emphasis on housing as a source of economic growth. Convinced that little political support for non-commercial housing aid remained, he declined an appointment in the newly reorganized federal housing bureaucracy and went into the Army in mid-1942.<sup>9</sup>

Westbrook's departure from Washington left the eight mutual ownership pilot projects without a guardian, and they quickly became administratively marginalized. When the residents heard rumors that the FPHA was preparing to abandon the mutual home ownership plan, they organized in protest.

## Mutual Housing Corporations Still Exist

Most of the residential communities still owned by nonprofit, mutual housing corporations are located in the Mid-Atlantic and the upper Midwest and have been strongly impacted by the postwar decline in investment in manufacturing.

Some, such as those located in isolated mill towns in eastern Ohio and western Pennsylvania where unemployment is high, have become unofficial retirement communities that struggle economically. Audubon Park, Bellmawr Park and Pennypack Woods are examples mutual housing corporations located in a metropolitan area (Philadelphia) that have rebounded economically, where there is competition for affordable housing.

Stony Brook Gardens was sold to a mutual housing corporation in the 1960s, long after its postwar sale to private investors. Atchison Village in Richmond, Calif. is part of the Rosie the Riveter/World War II Home Front National Historic Site and has seen an infusion of younger residents seeking ways to cope with the high cost of housing in the San Francisco Bay Region.

All of the mutual housing corporations need access to low-interest, long-term loans that will allow them to make the infrastructure updates and improvements needed to attract and retain residents. Condominium conversion is rare, but it still takes place from time to time.



They kept the FPHA from repudiating the promises made to them by Westbrook and the FWA, but it was not until 1953 before all eight of the original pilot projects were sold under the mutual plan.

Before he left Washington, D.C., in 1942 Westbrook suggested expanding the application of the mutual home ownership plan to *all* wartime housing developments, but National Housing administrator John B. Blandford, Jr., was lukewarm about the idea.<sup>10</sup> Faced with the congressional mandate to “dispose” of the housing built under the Lanham Act in the “interest” of the public when the war ended, Blandford reconsidered Westbrook’s advice. The mutual ownership plan offered a means of selling entire communities of multi-unit dwellings without displacing the thousands of workers and families with returning veterans who resided in them. In 1947, the Housing and Home Finance Agency’s Public Housing Administration (PHA), which succeeded the FPHA in 1947, began selling defense housing developments under a revised version of the mutual ownership plan. PHA sold first Walnut Grove and Greenmont Village, two of Westbrook’s original pilot projects.

The PHA forced residents of Lanham housing developments who wanted to buy their homes to overcome many bureaucratic, legal and financial hurdles. Members of the U.S. Congress, commercial real estate, home building, and banking interests, and right-leaning law and policy makers

placed stumbling blocks in their way. Accusations or insinuations of communist, socialist or radical beliefs were particularly effective in weakening support for mutual housing. A small handful of labor, religious and veterans’ leaders came to the defense of those whose personal integrity and national loyalty was questioned because they supported mutual housing.

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**Faced with the congressional mandate to “dispose” of the housing built under the Lanham Act,...the mutual ownership plan offered a means of selling entire communities ... without displacing ... thousands of workers.**

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A 1951 book, “*In the City was a Garden: a Housing Project Chronicle*” written by former shipbuilding worker and defense housing resident Henry Kraus, offered a behind-the-scenes look at one group of residents who tried to negotiate the sale of their Richard Neutra-designed community to a cooperative ownership corporation. He showed how “red-baiting” combined with racism destroyed the residents’ effort to buy San Pedro, Calif.’s Channel Heights from the PHA under the



*Audubon Park (NJ) consists of 499 wood framed one and two story dwelling units. Built in 1941, the dwellings were prefabricated in a nearby factory. During the war years, most of the residents worked in shipbuilding, shipping or other related industries. Today, residents of Audubon Park work all over metropolitan Philadelphia. The community is located directly adjacent to the Walt Whitman bridge spanning the Delaware River and offers ready access into downtown Philadelphia. Photo by Michael J. Chiarappa*

## Is There a Mutual Housing Association near You?

Due to the nature of defense industry, the mutual housing developments tend to be clustered in particular areas. The capital of mutual housing is in metropolitan Pittsburgh where there are more than a dozen. The Pittsburgh area cluster includes Aluminum City Terrace, the only residential community in the United States designed by architects, Marcel Breuer and Walter Gropius, and Shalercrest, designed by the prominent American architect Clarence Stein. A trio of mutual housing corporations is located in the Philadelphia area; they were also designed by prominent architects working in the International Style. Lake Forest in Wilmington, N.C. is the only mutual housing corporation still in existence that was originally sponsored directly by a veterans' organization. Mount Vernon Tenants' Association is the only known historically African American mutual housing association known to exist.

West:	Units
Atchison Village Mutual Homes Corporation, Richmond, Calif.	450
Woodstock Homes Corporation, Alameda, Calif.	200
Midwest:	
Walnut Grove Mutual Housing Association, South Bend, Ind	250
Greenmont Village Mutual Housing Association, Kettering, Ohio	500
Hilltop Manor Mutual Housing, Inc., Wichita, Kan	400
Kramer Homes Co-operative, Center Line, Mich.	500
Overlook Mutual Homes, Inc., Ohio	738
Brooklyn Acres Mutual Housing Corporation, Cleveland, Ohio	500
New England:	
Bridgeport Mutual Gardens Apartments, Bridgeport, Conn	771
Success Village Apartments Inc., Bridgeport, Conn.	924
Stonybrook Gardens Cooperative, Inc., Stratford, Conn.	400
Southeast	
Lake Forest, Incorporated, Wilmington, N.C	584
Mid-Atlantic	
Fulmor Heights, Hatboro, Pa	300
Winfield Park Mutual Housing Corporation. Winfield, N.J.	700
Bellmawr Park Mutual Housing Corporation, Bellmawr, N.J	500
Pennypack Woods Home Ownership Association, Philadelphia, Pa.	1,000
Armistead Homes Corporation, Baltimore, Md.	1,500
Glendale Heights Ownership Association, Glenholdern, Pa.	250
Audubon Park Mutual Housing Corporation Audubon, N.J.	499
Greenbelt Homes, Inc., Greenbelt, Md.	1,600
Metropolitan Pittsburgh:	
Aluminum City Terrace Housing Association, New Kensington, Pa.	250
Anthony Wayne Terrace Housing Association, Baden, Pa.	200
Linmar Homes, Aliquippa, Pa.	250
Shalercrest Housing Association Inc., Pittsburgh, Pa.	250
Chartiers Terrace, Carnegie, Pa.	200



mutual ownership plan. Amidst accusations of disloyalty, the residents split along political, class and racial lines over the proposed sale. Supporters of the mutual sales initiative encountered resistance from local real estate and home building interests, local, state, and federal housing, and planning officials and others who saw the sale of the desegregated Channel Heights to a cooperative housing corporation as a threat to the commercial real estate market.<sup>11</sup>

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**“All of the mutual housing corporations need access to low-interest, long-term loans that will allow them to make the infrastructure updates and improvements needed to attract and retain residents.”**

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The postwar interest in mutual and cooperative housing expressed by moderate or “middle” income householders alarmed the promoters and financiers of speculative home building. They took action to ensure that federal housing aid be confined to agencies and programs that emphasized home ownership and objected to assistance directed towards the nonprofit sector as un-American. Real estate, banking and home building lobbyists convinced Congress to pass the Housing Act of 1950 after Title III, authorizing the creation of a National Mortgage Corporation for Housing Cooperatives, be removed. The bill’s framers, U.S. Senators John Sparkman, D-Ala., and Burnett R. Maybank, D-S.C. and U.S. Representative Brent Spence, D-Ky., had proposed the creation of the National Mortgage Corporation for Housing Cooperatives with the goal of stabilizing and enlarging the cooperative housing market the way the Federal Housing Administration (FHA) had helped the commercial market.<sup>12</sup>

Westbrook worked behind the scenes to secure passage of the Housing Act of 1950 with Title III intact. He served as a consultant to fledgling mutual housing corporations formed by veterans at McLean Gardens in Washington, D.C. and veterans and residents at Greenbelt, Md.; some were the cli-

ents of the for-profit corporation he operated briefly after the war. Shortly after the presidential election of 1960, Westbrook wrote to President-elect John F. Kennedy, encouraging his interest in affordable housing and related urban issues, reminding him of cooperative housing’s potential to provide economic and social stability to communities.<sup>13</sup> During his retirement Westbrook maintained an interest in the communities that were sold under the mutual home ownership plan. He took a special interest in letters and reports about the eight pilot projects.

Westbrook wanted Audubon Villages to be built all over the United States for families who could not afford to buy a house. Doing so would have helped ease the housing shortage and assist the economy’s adjustment to peace-time production. He thought mutual housing communities should be built to help those displaced by urban renewal and infrastructure improvements such as airports and interstate highways. But neither the Housing and Home Finance Agency nor its successor, the Department of Housing and Urban Development, incorporated the mutual home ownership plan into its policy. The roughly 50 New Deal and World War II housing developments were sold to private, nonprofit cooperative housing corporations between 1947 and 1958, gradually drifting into housing policy obscurity.

Today, at least 34 of the residential communities built during the Roosevelt years are still owned by nonprofit mutual housing corporations. Resources are needed to help some of the cooperative corporations respond to the declining industry and manufacturing economies, changing demographic patterns, aging infrastructure and pressure to convert to condominiums or commercial sales.

For too long, Westbrook’s role in the growth of mutual and affordable housing has gone unacknowledged. The mutual housing plan he developed and implemented with the help of CIO’s Green became the basis for more than a half century of mutual ownership and democratic participation in community governance. The story of the cooperative home ownership plan reveals another set of unsung postwar heroes and heroines—the residents who devoted countless hours to reading and writing letters, attending meetings, campaign-

ing for their neighbor's support and completing numerous other tasks in order to comply with the many regulations and requirements set forth by the FPHA/PHA. They refused to give up despite opposition that came from both in and outside of their communities.

Present-day mutual home owners who are the children and grandchildren of the founding generation should take pride in their, and subsequent generation's, accomplishments that have made the mutual housing corporations work on a day-to-day basis, helping middle-income Americans enjoy affordable housing and a strong sense of community.

<sup>1</sup> The film was produced by the Texas Rural Communities, Inc.

<sup>2</sup> Lawrence Westbrook, "The Program of Rural Rehabilitation of the FERA," *Journal of Farm Economics* 17 (February 1935): 89-91. See also: Paul K. Conkin, *Tomorrow a New World: The New Deal Community Program*, (Ithaca: Cornell University Press for the American Historical Association, 1959), 132.

<sup>3</sup> "Westacres," *The Architectural Record*, 80 (October 1936): 253.

<sup>4</sup> "Neither Subsidies Nor Guarantees"; Text of Statement by President Green on Need for Defense Housing," *The Shipyard Worker*, 5, no. 10 (September 6, 1940), 2

<sup>5</sup> Lawrence Westbrook, "Home Ownership by Workers Made Feasible," *Labor Information Bulletin*, 8, no. 9, (September 1941): 10-11.

<sup>6</sup> John Green, "New Homes for Old," *CIO News*, (13 May 1940), 3.

<sup>7</sup> Don Parson, *Making a Better World: Public Housing, the Red Scare, and the Direction of Modern Los Angeles*, (Minneapolis and London: University of Minnesota Press, 2005), 7.

<sup>8</sup> "Federal Housing for Aviation Workers," *The Architectural Forum* 75 (July 1941): 5; "Low-Cost Houses," 240-242 and "Texas Workmen Build Finished Home in 58 Minutes," *Life*, (9 June 1941): 5960, 63.

<sup>9</sup> Philip J. Funigiello, *The Challenge to Urban Liberalism: Federal-City Relations during World War II*, (Knoxville: Tennessee University Press, 1978), Ch. 2.

<sup>10</sup> Lawrence Westbrook, Report to John B. Blandford, Jr., Washington, D.C., March 7 1942, 2, Lawrence Westbrook Papers, The Texas Collection, Carroll Library, Baylor University, Waco, Texas (hereafter Westbrook Papers), 2E444, FF50.

<sup>11</sup> Henry Kraus, *In the City Was a Garden: a Housing Project Chronicle* (New York: Renaissance Press, 1951).

<sup>12</sup> Mary Spargo, "Plan to Aid Those in Middle Income Group Stricken Out by Vote of 218 to 155," *The Washington Post*, (23 March 1950), 1 and "Aid Refused to Co-op Housing," *Commonweal*, 51 (April, 1950), 670.

<sup>13</sup> Lawrence Westbrook to [John F. Kennedy,] President-elect, 4, 25 November 1960, Westbrook Papers, 2E444, FF 43

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# **A Tale of Two Communities: The Economic Value of Living in a Resident-Owned Manufactured Community versus a Manufactured Rental Home Community**

**By David J. Thompson**

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Is it worth it for the residents to buy the manufactured home community they live in? The answer in most cases is yes. However, lots of people strongly oppose residents buying the homes they live in, even including some of the residents themselves. Frequently, residents are told either they cannot afford it or have the ability to buy it. In most cases, neither argument is valid.

There are frequent exceptions to the rule that relate to the value of the underlying land. Quite often, the manufactured home owner wants to sell because the buyer intends to close down the community and sell it for other higher valued purposes such as a shopping center or for high-density condominiums or rental housing. In these cases, it never makes economic sense for the resident renters to attempt to compete with the other higher offers. Almost every community that is sold for a higher value use closes down and seldom does this type of community become resident owned as seen regretfully every year in California.

Residents have successfully purchased hundreds of manufactured homes around the United States as cooperative or member controlled nonprofit organizations. In all these cases, external professionals who work independently or are part of a non-profit entity that specializ-

es in residential purchases have guided residents. Completing a successful purchase requires time (a year or more), a number of key skills, member equity and usually a slice of public financing. Most resident purchases of manufactured homes come out of a seasoned well-financed package. The outcomes of every resident purchase of a manufactured home community illustrate the proven economic benefits of resident ownership.

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**“...residents who own their manufactured home communities... have... lower lot fees, higher average home sales prices, faster home sales and access to fixed-rate home financing.”**

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New Hampshire is the state with the best examples of successful resident purchases of manufactured home communities. Almost all of the N.H. conversions have been to limited-equity housing cooperatives serving low and moderate-income households. With their supportive state law, modest share requirement and ample external professional support and financing, the N.H. resi-

dent-owned cooperatives are well worth replicating.

Florida and California are two states in which the outcomes for resident ownership have yielded diverse results. In both these states, resident ownership has produced models such as either a limited-equity cooperative, market-rate cooperative or condominium or non-profit. Share buy-in has often netted \$100,000 or more, and lot ownership has grossed up to about \$300,000. These market rate cooperatives require a 20-30 percent down payment on an individual mortgage. In these states, some of the communities are owned by nonprofits. They pose as having resident involvement, but legally residents do not have control, ownership or a vote. Buyers should be more aware of the structural weakness of the nonprofit model.

However, few of the manufactured home communities in California or Florida serve low or moderate-income households. Yet, their upscale location or their view may well be worth it. The park owner benefits by subdividing the park and then selling each lot at a higher market value. Nonetheless, to find a manufactured home community in those states that serves low and moderate-income households, one must view a list of limited-equity housing cooperatives.

The story of the programmatic purchase of manufactured home communities through resident-owned cooperatives began in 1984. That year, the New Hampshire Community Loan Fund (NHCLF) initiated the resident purchase of a 14-space community in Meredith, N.H. Thirty years later in 2015, residents cooperatively own 114 manufactured home communities in New Hampshire. The integrated development model NHCLF created was key to 10 percent of the New Hampshire parks being resident owned.

The demand from other states to use the NHCLF model kept growing, but NHCLF did not want to be a national organization. Consequently, NHCLF joined with the Ford Foundation, NCB Capital Impact Partners, the Corporation for Enterprise Development and NeighborWorks® America to create a national organization that could provide a more comprehensive service. In 2008, these organizations established ROC USA®. Together, the ROC USA® Network affiliates have brought manufactured communities to over 10,000 manufactured home owners in what are now 174 resident-owned cooperatives in 14 states. Every month, within the ROC USA® Network, a new resident-owned cooperative buys its community.

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**“...residents who own their communities consistently perceive greater control over and stability in their lot rents. “**

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Although residents owning their communities are becoming a national movement, the success is built on the ground of economic realities of each resident community purchase compared to those remaining as renters. A 2006 University of New Hampshire study published through the Carsey School of Public Policy by Sally Ward, Charlie French and Kelly Giraud comparing resident-owned versus rental manufactured home communities in New Hampshire stated:

Key findings: The principal findings of this benchmark study are that residents who own their manufactured home communities, commonly referred to as mobile home parks, have

consistent economic advantages over their counterparts in investor-owned communities, as evidenced by lower lot fees, higher average home sales prices, faster home sales and access to fixed-rate home financing. Additionally, residents who own their communities consistently perceive greater control over and stability in their lot rents and governance and worry less about being displaced because of park closure for re-development.

This particular article is about the 20-year comparative success of the resident-owned Leisureville Mobile Home Park in Woodland, Calif. The 150-space manufactured home community transformed from rental to resident ownership during 1994. The owner sold Leisureville to the residents for \$5,050,000 (Park prices tend to be much higher in California and Florida than other states due to higher land values). January 1, 1995, was the beginning of the first full year of the residents owning the community as a limited equity housing cooperative.

The article compares resident-owned Leisureville (LV) with Rancho Yolo (RY), a 262-space mobile home rental community less than 10 miles away in Davis, Calif. At Rancho Yolo the residents rent their space from the manufactured home park owner. Both are situated in Yolo County.

The comparison focuses on the space rent cost difference for the manufactured home owners in the two communities from 1995-2015. They are both senior-only communities (age 55 and above).

Two decades (1995-2015) allow for a strong valid economic comparison between residents renting within a community versus residents owning the community.

The author worked with Jerry and Chris Rioux to structure the successful sale of Leisureville to the residents. The author and Luke Watkins of Neighborhood Partners worked with the residents of Rancho Yolo to make a market-rate offer for the community, but regretfully the owner refused to sell to the residents.

The first table shows the comparison in the average space rents (ASR) between the two parks over the 20-year period 1995-2015.



**Table 1. Average Space Rent (ASR)**

	<b>Jan. 1, 1995 ASR</b>	<b>Jan. 1, 2015 ASR</b>
Rancho Yolo (RY)	\$345 x12 = \$4,140	\$580 x 12 = \$6,960
Leisureville (LV)	\$304 x12 = \$3,648	\$346 x 12 = \$4,152
LV Monthly/Annual Savings	\$ 41 = \$ 492	\$234 = \$2,808

The next table shows the percentage increase in ASR of both parks over the same 20-year period.

**Table 2. Increase in Average Space Rent (ASR)**

<b>Mobile Home Community</b>	<b>Increase in ASR 1995-2015</b>
Rancho Yolo (RY)	59 percent over 20 years
Leisureville (LV)	13 percent over 20 years

On average, the renters at Rancho Yolo are each now paying \$2,808 more per year than the resident owners of Leisureville. Half of the residents living at Leisureville are low or extremely low income and about 40 percent of the residents at Rancho Yolo are in the same income categories. A number of residents of both communities are single, divorced or widowed women. They receive either Social Security retirement or disability income. None of the eligible residents in the two communities are receiving Section 8.

Due to the changes in rents as a percentage of income over 20 years, the extremely low and low-income residents on fixed incomes at Leisureville have more disposable income while those at Rancho Yolo have less. Resident ownership brings many advantages to extremely low and very low-income seniors on fixed incomes.

**Table 3. Yolo County Median Income**

<b>Extremely Low Income</b>			<b>Low Income</b>	
	1 person	2 persons	1 person	2 persons
1995	\$15,400	\$17,600	\$24,650	\$28,150
2015	\$16,150	\$18,450	\$26,950	\$30,800

In examining average space rent as a percentage of income, a single extremely low-income senior (\$16,150 a year) living at Leisureville will be paying 26 percent of his or her income for space rent. On the other hand, that same senior living at Rancho Yolo will be paying 43 percent of his or her income. In reality, many single female seniors have income of \$10,000 or less.

### **Profile of Leisureville (LV) Today**

- One hundred fifty owners possess \$1,170,000 of equity in LV (Share investment of \$7,800 per home).
- LV does not anticipate an increase in space rents for 2016.
- Total LV reserves are at \$703,000 with \$650,000 being set aside for long-term reserves.
- LV sets aside an additional \$90,000 annually for its long-term reserves.
- Long-term conventional debt is down to \$900,000.
- Of the 150 homes at LV, only two are for sale.

### **Profile of Rancho Yolo (RY) Today**

- None of the 262 renting households hold any equity in the community.
- There is a regular annual rent increase each year of about \$15 at RY.
- As RY is not resident owned, there are not any reserves owned by the renters.
- Of the 262 homes at RY, eight are listed for sale.

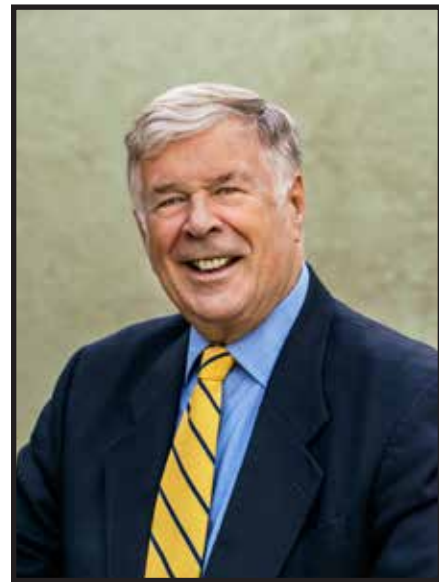


*Today, Leisureville has the lowest space rents of any manufactured community in Woodland or Davis. Consequently, every year the economic value of living at Leisureville versus Rancho Yolo grows wider and more beneficial. The effort to buy Leisureville took almost three years, but the annual savings year after year made it all worthwhile. Photo by David J. Thompson.*

## **20th Anniversary Celebration of Cooperative Ownership**

On April 6, 2014, in Woodland Calif., the clubhouse at Leisureville Mobile Home Park celebrated Founder's Day and the 19<sup>th</sup> year of moving from renters to resident-owners. Among almost 200 seniors sat two former mayors of Woodland, one former mayor of Davis, one county supervisor and two candidates for Woodland City Council. More than 100 owners and their families and guests commemorated their community of Leisureville and its almost two decades of independence of ownership by an absentee landlord.

Speeches, toasts, reflections and gratitude abounded. Residents thanked the boards for their service and the managers for their capabilities. The owners of Leisureville had a debt to pay to the many who helped them, and no one who had helped them was left out.



*David J. Thompson, a co-principal of Neighborhood Partners, LLC, is also president of the Twin Pines Cooperative Foundation in Davis, Calif.*

# Case Study: Financing a Cooperatively Owned Rural Manufactured Home Community

By Lance George and Jann Yakausas

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*Editor's Note: This study is adapted from Preserving Affordable Manufactured Home Communities in Rural America: A Case Study and published by the Housing Assistance Council in 2011.*

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## Green Acres Cooperative: 2010

The following case study highlights the process, financial considerations and actions taken in the course of the resident purchase of a manufactured home community in rural Montana. The previous owners chose to sell the property to the residents to benefit from new legislation in Montana that provided tax credits to sellers of manufactured home communities to their residents. ROC USA® sought a loan from the Housing Assistance Council (HAC) which was a primary component of the cooperative conversion, assisting in the acquisition of Green Acres Court. The cooperative located in Kalispell, Mont., is a 32-unit manufactured home community that residents purchased in August 2010.

## Green Acres Court: The Community, Property and Market

Green Acres Cooperative is situated in Flathead County, just outside the city limits of Kalispell that had 62 licensed manufactured home communities. Thirty-eight communities were located in and near Kalispell. Of these 38 communities, 16 were considered small and had an average of only five homes. Several manufactured home commu-

nities in Flathead County had been sold for redevelopment. The closing of a 132-unit community in the nearby Town of Whitefish resulted in displacement of 130 low to moderate-income families.

Green Acres, originally developed in 1973, sits on 4.35-acres with a well-house and a storage building. The homes in Green Acres built between 1971 and 1999 are generally well maintained, and the community is neat, orderly and quiet. It is considered to be in above-average condition. Thirty of the 32 homes are owner-occupied. Two homes are currently community-owned and rented to the occupants. Two of the 32 units are multi-section homes, and the remainder is single-section homes.

In preparation for the purchase, applicants completed a household demographic survey. The results revealed that residents of the community were predominantly white and spoke English. One-third of the homeowners were seniors. Two households included a person with a disability, and two had a single woman as head of household. Ninety-one percent of households (all but two) earned below 80 percent average median income with 17 households, or 73 percent, reporting incomes at 60 percent or below. Average re-

ported income of the homeowners was \$19,500. Seventy-seven percent of those surveyed reported being income earners over 40 years of age. This profile indicated people with established work histories and significant earning potential.

The residents of the community were largely stable, with approximately two-thirds of households having lived in the community for at least 4 years. The average family had resided in the community for 6 or more years, not including one family that had lived there for 40 years.

## Starting the Resident Purchase Process

The homeowners of Green Acres started meeting regularly in November 2009. In June 2010, 16 of the 30 homeowner households executed subscription agreements, and Green Acres recognized them as full members of the cooperative. By the time of the purchase, 20 of the homeowner households had become full members. The sign-on fee was \$25, and the one-time subscription fee was \$225. The seller transferred residents' security deposits to the cooperative, and these served as equity payments under the subscription agreement.

For this community, NeighborWorks Montana (NWMt)

served as the ROC USA® Network “certified technical assistance (TA) provider.” Green Acres Court was the third community NWMT had organized for resident ownership. In 2008, prior to its involvement with Green Acres, NWMT took title to a 32-site community called Mountain Springs in Red Lodge, Mont. Due to the high infrastructure needs of this community, NWMT purchased the community on behalf of the residents while assisting with redeveloping the community through infill homes and new infrastructure. NWMT transferred the title to the homeowners in 2011. NWMT also assisted residents of a 48-site community in Great Falls called Missouri Meadows in the negotiation of a purchase contract.

NWMT provided an unsecured predevelopment loan to the cooperative for engineering services including a property conditions report and environmental site assessment and associated legal fees. The cooperative maintained a two-month operating reserve, a one-month debt service reserve and a 5 percent replacement reserve as part of its lot rent structure. This structure also supported a bookkeeper at five hours a month, a maintenance supervisor, snow plowing, road maintenance, septic system pumping and trash collection.

### **Making the Resident Purchase Work**

The cooperative incorporated in January 2010 as a public benefit corporation under the Montana Nonprofit Corporation Act. Through this process the cooperative developed a board of directors, filed its articles of incorporation and provided education and training that resulted in 20 of the 30 resident homeowners signing subscription agreements. In addition, the cooperative negotiated a purchase agreement with the seller; commissioned the property conditions report, engineering study and appraisal and received approval for Community Development Block Grant (CDBG) funds to subsidize the purchase.

NWMT provided elements of pre-purchase technical assistance by including:

- guidance through the resident-ownership conversion process, including community education and training, financial analysis and development checklist;
- preparation for negotiations with the seller;

- referrals to interested attorneys who had demonstrated experience in pertinent areas of law;
- legal documents, including articles of incorporation, by-laws, subscription agreement, occupancy agreement and membership certificate, all of which the cooperative’s attorney reviewed;
- assistance with preparing an operating plan for the community;
- assistance in preparing the financial proposal and referring the cooperative to a variety of appropriate lenders, including ROC USA® Capital, LLC;
- assistance with contracting a property conditions analysis and report and distribution of resident surveys for capital improvement planning and budgeting; and
- assistance in developing the organization along democratic lines, including training leaders in meeting management, decision making, record keeping and ethics.

### **Financing the Purchase**

In August 2010, ROC USA® Capital provided a loan to Green Acres Cooperative for a term of 10 years. Funds for pre-development expenses that had been provided by NWMT were repaid at closing of the acquisition loan. The Flathead County CDBG program provided a grant in the amount of \$190,000. In addition, the seller provided a \$10,000 cash contribution to help pay for surveying and engineering work needed to complete design of a new septic system and submit funding applications to the U.S. Department of Agriculture and Flathead County. Green Acres secured the loan by a first-priority lien on the 4.35-acre site and by collateral assignments of lot leases, lot rents and reserve accounts. Ultimately, the loan commitment from the HAC was never disbursed because the cooperative could not meet the condition of financing a replacement septic system.

### **After the Resident Purchase**

For 10 years, NWMT will provide post-purchase technical assistance that includes help in implementing the operating plan, assistance in developing procedures and policies and training



and education for members and leaders. In addition, NWMT coordinates networking activities for building links with other resident-owned manufactured home communities. The cooperative pays a fee for NWMT's services. In addition, the cooperative hired a third-party bookkeeper to provide full-service financial management services. Prior to resident purchase, lot rent had remained constant for the past 3 years at \$275 per lot. Upon purchase, the cooperative increased the rent by \$15, adopting a lot rent of \$290 for members and \$310 for nonmembers. While there are not many apartments in Kalispell currently marketed for rent, a 2009 rent survey indicated average apartment rent of \$675 in the area, about twice the projected \$290 per month lot rent in the community, making Green Acres Court one of the more affordable housing options in the area.

### **Risks and Benefits Going Forward**

While the Green Acres manufactured home community was successfully converted to resident ownership, there are still risks and challenges to the cooperative's viability and future success.

Green Acres Cooperative is a new entity, inexperienced in the practical details of community management as well as larger systemic issues related to cooperatives and cooperative viability. Additionally, the community's on-site septic system, while currently functioning, needed replacement. Finally, in an effort to make the gap financing affordable, the cooperative needed an extended term of 10 years with a balloon payment.

Yet there were also several important mitigating factors that help reduce risks to the newly formed cooperative. Most notable is the support and coordination from ROC USA®, an organization whose staff has decades of combined experience in manufactured housing cooperative conversion and management. Although it is a small community, Green Acres Cooperative is well organized, has demonstrated effective leadership and has more than 20 residents signed up as member-owners. In addition, the cooperative has strong, ongoing technical support from NWMT. All of these factors reduced overall risk.

### **Lessons Learned**

After much effort, work and time from resi-

dents and supporting partners, the conversion of Green Acres Court into a manufactured home cooperative was a success. It must be noted that the cooperative at the time was less than 1-year-old, and its long-term efficacy and impact could not be fully assessed. Additionally, Green Acres is an individual case, and many of the elements of its purchase and cooperative conversion are unique to this particular development and community. But there are important lessons and findings to take away from this effort. The story of Green Acres Court, while anecdotal, illustrates several common issues and processes that appear during any cooperative conversion.

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**“While each manufactured home community is unique, the common components of collaboration, technical assistance and resident organization and participation are elemental in cooperative conversion.”**

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There are tens of thousands of manufactured home communities across the United States, but cooperatively-owned communities are not common. Inherent in the cooperative conversion process are several components and provisions unique to this form of development. A particularly important component in the Green Acres experience and most successful conversions is the high level of collaboration among several complementary project supporters, including technical, legal and financial assistance providers. Having a core organization like ROC USA®, with its 20 plus years of institutional knowledge, local affiliate in NWMT and its subsidiary CDFI, which supports the cooperative both in development and over time is a significant asset for other organizations, like HAC and CDBG, that are supporting specific elements of the cooperative's plan.

Undoubtedly, the key component in this or any successful park conversion lies with the homeowners in the community. The homeowners of Green Acres Court organized and committed significant amounts of time and effort in this process. This

group of neighbors navigated the maze of requirements, hurdles and financial challenges over a period of several months. While each manufactured home community is unique, the common components of collaboration, technical assistance and resident organization and participation are elemental in cooperative conversion. In the end, Green Acres Court was preserved not only as one of the few sources of affordable housing in its rural area but, more importantly, as a community.

*Lance George is director of research and information and Jann Yankausas is former senior loan officer at the Housing Assistance Council in Washington, D.C.*

### **Green Acres Cooperative: 2015**

*Editor's Note: Mary Lou Affleck, project coordinator for development of NeighborWorks Montana provided current information on Green Acres Cooperative since its 2010 conversion.*

In the last year, two newer homes moved into the Green Acres Cooperative. The former resident abandoned one home which was hauled to the landfill, and now a newer home occupies the lot. The addition of a project sign has been a good marketing tool. Thus, the community is 100% occupied and has a waiting list.

Green Acres also purchased a riding lawn mower and has made improvements in the yard and grass, keeping it well groomed. Through Rural Electric Cooperative, Green Acres removed 20 old and mostly dead, large trees at no cost. As a result, the cooperative constructed a new wood fence along the boundary where the trees previously were to create a sound barrier and provide privacy for residents. In addition, the cooperative added a loop in the road around the mailboxes that eliminated a bottle-neck. The cooperative's upcoming project

will be remodeling an old laundry room building that has not been used for many years and converting it into a meeting and activity room.

To overcome struggles when the leadership changed early on, ROC offered Green Acres access to its Community Leadership Institute that provides annual training sessions in all aspects of operating ROCs. Consequently, Green Acres leaders have acquired knowledge and skills that have led to confidence with results of a well-run organization.

### **Risks and Benefits Going Forward**

At the time of the conversion, Green Acres applied to USDA's local rural development office and the State of Montana for funding to construct new sewer infrastructure with Kalispell's municipal sewer system. Although Green Acres experienced project overruns and construction issues, the cooperative completed the project. Since the cooperative eliminated maintenance and servicing expenses of the old septic systems, the cooperative did not raise rents even with the increased sewer costs to the city.



*Green Acres Cooperative is thriving as it celebrates its 10th anniversary. Photograph courtesy of Green Acres Cooperatives.*



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