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COOPERATIVE HOUSING QUARTERLY

A member service of the National Association of Housing Cooperatives

Spring 2021



Open Board and Annual Member Meetings in 2021 Take Planning

By April Knoch

Editor's Note: This issue of the Cooperative Housing Quarterly is dedicated to arming members with the knowledge to effectively operate their cooperatives during covid. The article below written by April Knoch offers guidelines to conducting

board and annual meetings during the pandemic. Elsewhere in this issue, Daniel Costello clarifies the lines of local, state and federal authority in "Covid-19 — Which Emergency Orders Do I Follow?" and Dawn McDonald answers the question, "Can Employers Require the Covid Vaccine?"

nnual meetings are on the horizon again, but Covid restrictions are still in place. Without implementation of certain measures for open meetings and social distancing compliance, 2020 made it nearly impossible for hundreds of

housing cooperatives to operate, both at a board level with open meeting requirements and at the membership meeting level. If you are one of the hundreds of housing cooperative boards that either delayed annual member meetings or board meetings in order to avoid violation of

health and gubernatorial mandates, you are now in a position to start planning now for 2021 having the experience of 2020 behind you.

While housing cooperative governance documents vary from cooperative to cooperative, so do state laws that cover corporate operations. While no two cooperatives or states are identical, there are ways to implement member meeting procedures on a temporary basis if

The article options without a member meeting, so long as those options are provided for under the bylaws.

Additionally, nearly every state has some provision governing virtual meetings without the need for specific language in the bylaws and, like Michigan, may require a written virtual meeting policy.

your bylaws do not already provide some latitude.

By way of example, Michigan permits several

a written virtual meeting policy to be in place in order to use a virtual member meeting option. But what if you do not have the exact language necessary to hold a member vote without a meeting in your documents? First, contact your cooperative's attorney and then discuss with him or her whether the following options could work for you.

• Virtual meetings and virtual balloting platforms are a permissible option so long as there is a written policy in place with guidelines for use in order to maintain the meeting and voting integrity. Your meeting policy should, at a minimum, identify (1) how voting will take place; (2) who

will be the IT moderator and offer live support to online users; (3) how you will register your members for attendance; (4) what time voting will begin and end; (5) parliamentary procedure; (6) proxies; (7) nominations from the floor; and (8) distribution of information.

• Absentee ballots may be a permissible option so long as



permissible option

so long as there is

a written policy in

place with guidelines

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maintain the meeting

and voting integrity.

April Knoch is an associate attorney with Pentiuk, Couvreur & Kobiljak, P.C., in Wyandotte, Mich.

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COOPERATIVE HOUSING QUARTERLY

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Issues of the *Cooperative Housing Quarterly* are devoted to matters of interest to boards and members of Housing Cooperatives and concerned professionals. All NAHC Associations and Members should advise their memberships on how to get and download CHQs when published.

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Address inquiries, manuscripts, news items and responses to the Editor at NAHC, email info@nahc.coop. For reprint permission, advertisements and other business matters contact NAHC, 1120 20th Street, NW, Suite 750, Washington, DC 20036-3441, www.NAHC.coop.

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About NAHC

The National Association of Housing Cooperatives is a nonprofit national federation of housing cooperatives, other resident-owned or -controlled housing, professionals, organizations, and individuals interested in promoting cooperative housing communities. Incorporated in 1960, NAHC supports the nation's more than a million families living in cooperative housing by representing cooperatives in Washington, DC, and by providing education, service, and information to cooperatives.

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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CAHC California Association of Housing Cooperatives
CHANE Cooperative Housing Association of New England
CNYC Council of New York Cooperatives & Condominiums

CSI Support & Development Services

FNYHC Federation of New York Housing Cooperatives &

Condominiums

MAHC Midwest Association of Housing Cooperatives
NJFHC New Jersey Federation of Housing Cooperatives
PAHC Potomac Association of Housing Cooperatives

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About Bostrom

Bostrom Corp. is the professional services firm managing the National Association of Housing Cooperatives affairs. Mik Bauer serves as NAHC Executive Director.

Living on the Sixth

By Fred Gibbs



Fred Gibbs President

on January 6, my pen and thought process were halted by the horrifying display of division and acrimony that paraded itself as patriotism at the U.S. Capitol. There was no shortage of commentary on the incredible events America unfortunately witnessed. Each broadcast, printed article and radio account challenged the long accepted descriptive phrase, "...one Nation, under God, indivisible, with liberty and justice for all." Yet, after the long-suffocating

weight of the unimaginable was removed, I had a surprisingly new declaration, "I could breathe."

However, the sixth is more than a day on the calendar. The cooperative community recognizes it as the principle linking us to others who embrace the cooperative movement. Cooperation among cooperatives as the sixth principle is intended to guide our unique economy and protect it from the impulses of any single person or entity. It supports the realization of a fully functioning network of like-minded people who have collectively decided to determine their destiny in a manner that is controlled democratically by its members. Unfortunately, many housing cooperative members limit their involvement to the housing sector and nothing more. Thus, they fail to live on the sixth.

In most American communities, one will not have to look too far to find cooperatives whose focus is more than just housing. These cooperative sectors, if properly linked, can be leveraged to build a robust economy to which each participant contributes. It is my goal and, therefore, that of NAHC, to broaden our circle of cooperation to include other sectors, to the benefit of our members. I believe we can educate and support our members in the quest to discover cooperative enterprises in their communities and find ways to overcome a host of economic and human challenges.

One sector that is most easily accessed is that of banking. Credit unions are built on the cooperative model and are owned by their members. Researching and becoming acquainted with local credit unions can be a first step in the effort to live on the sixth. However, don't just join a credit union, become active in the organization. Seek out other members and identify yourself as a fellow cooperator. You will find, as in most conversations about cooperatives, those you meet will likely be unaware of the role housing cooperatives play. Invite the credit union to participate with your housing cooperative. Discover ways to cooperate for the benefit of your members, perhaps through share loans and depository agreements. Speak with your board members about moving accounts from banks to credit unions. That could be a good start to this relationship building between cooperatives.

Discover ways to cooperate for the benefit of your members, perhaps through share loans and depository agreements. Speak with your board members about moving accounts from banks to credit unions.

I recently discovered a food cooperative in a neighboring community. Checking out its website, I noticed one of its board members is someone I've known for quite some time. After making contact and talking for a bit, it was apparent we had never discussed the cooperative movement, though we are both passionate about our involvement. I plan to join. It was a wonderful discovery.

I made another discovery. While seeking a solution for a cooperative's web presence, I was fortunate to find a tech cooperative in the Boston area. It has developed a web platform that affords users the ability to create and maintain their websites and satisfy data management needs, using open-source tools created by and for cooperatives. I took the time to introduce the cooperative to the world of housing cooperatives. The members are excited at the prospect of working with our sector to help resolve the technical challenges we all face, given the high cost and steep learning curve of technology. I will be working to establish a substantial connection between this tech cooperative and our members in the near future. Stay tuned. NAHC will endeavor to expose our members to a variety of cooperatives, beyond our sector of housing and will lead the way, living on the sixth. CHQ

COMMITTEE CORNER

Member Services Committee

THE COMMITTEE is considering the following locations to convene the 2021 annual conference: Charleston, S.C.; Jacksonville, Fla.; Savannah, Ga.; and St. Thomas, U.S. Virgin Islands. Results from a recent NAHC survey will guide the committee on selecting a location and date.

Portland, Ore., will be the site for the 2022 conference.

Roger Willcox Library Committee

THE COMMITTEE is collaborating with the University of Michigan, University of Wisconsin, Phoenix University in Arizona, among other universities to house the hard copies of the Roger Willcox Library. The committee will provide an update once a college has agreed to take the library.

there is an established policy for board, management and membership to follow. Your policy should, *at a minimum*, identify (1) proxy and ballot timelines; (2) registration; (3) nomination process; (4) timeline of events; (5) what will constitute a quorum for purposes of counting absentee ballots; (6) how are ballots distributed and then how are they

collected; (7) who counts the ballots and who selects those persons (alternatively select a neutral third party outside of the organization such as the League of Women Voters or the National Association of Parliamentarians to open and count the ballots); and (8) if ballots are spoiled, what constitutes spoliation.

- A hybrid of a virtual meeting and absentee balloting with a hybrid policy outlining, again at a minimum, those items identified above.
- Adjournment of the annual meeting for a period not to exceed statutory timelines for holding annual membership meetings. For example, in Michigan, annual meetings must be held within 90 days of the date in which they are to be held under the bylaws.
- Polling the membership or obtaining written consents about the annual meeting in advance of the annual meeting in order get the members' input as to how and when they want their annual meeting held.

Regardless of the measures you adopt for your cooperative, always engage your cooperative's attorney to issue a proper legal opinion to the board as to the pros and cons of the measures sought. Always have your cooperative's attorney assist you with preparation of *written*, that's right, written resolutions that outline and detail the board's decision including the basis for that decision. Both are necessary in the event a member challenges your decision in court so as to establish your decision under the business judgment rule. Courts are less likely to overturn any decision by a board or otherwise interfere with a decision that is based on due diligence and implemented in good faith.

Cooperatives located in states with open meeting requirements were left at a particular disadvantage because many members either do not have a computer or smart device, or they were too unfamiliar with technology to try. Unfortunately for these cooperatives, there was no other option but to hold virtual meetings either through telephone conference or Zoom. We advised many of our clients to start test-runs amongst board members to become acclimated to Zoom functions and features. We then suggested that the board expand those test runs into "informational" member meetings solely for the purpose of getting members acclimated to the process.

Zoom is a great platform for open board meetings because it gives the board the ability to mute all participants except board members so business can be

conducted as usual and then to unmute those participants who raise their hands to be recognized during appropriate designated times on the agenda. It also gives the board the ability to move to a break-out room for closed sessions where sensitive and confidential information must be discussed, leaving non-board members in the meeting until

Absentee ballots may

be a permissible option

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board, management and

membership to follow.

the board members return from closed session. Because of the nature of an open board meeting, a virtual platform is the only way to hold such meetings while adhering to social distancing and group gathering restrictions during this age of Covid.

The best thing is that while some measures may require a bylaw amendment, not all measures will require a bylaw amendment. Again, it will depend entirely on the contents of your documents and your applicable state laws, but, with the help of your cooperative's attorney, you

can make your next open board meeting or annual member meeting successful.

Conditions could very well abate this year, and meetings may then be held in the fashion prescribed under your bylaws. The wise cooperative board, however, will begin planning now and simply hope that it will not be necessary to implement such a plan. CHQ

Free Pharmacy Discount Cards and Cooperative Healthy Savings Program



The Cooperative Healthy Savings (CHS) Program is for families living in NAHC member cooperatives. The Cooperative Healthy Savings Program provides pharmacy discounts that make getting prescriptions simple and more affordable. This is a prescription discount plan, not insurance.



Covid-19 – Which Emergency Orders Do I Follow?

By Daniel Costello

With the Coronavirus (Covid-19) pandemic, new rules and regulations concerning public health are being disseminated weekly by federal, state and local authorities. These new rules typically concern crowd size, masks mandates, restrictions on essential and non-essential employees, evictions and how businesses, such as a housing cooperative, are to maintain public spaces and working conditions for its employees and members. It can be confusing to determine which rules and regulations, federal, state or local, apply to your housing cooperative and what to do if there is a conflict between Covid-19 mandates.

Hierarchy of Authority

When determining which rules and regulations apply to your cooperative, it is helpful to understand the hierarchy of laws. There is an established hierarchy of authority for laws, rules and regulations that cooperatives and other businesses and people must follow. This hierarchy is not just for Covid-19 and extends to all laws, rules and regulations. Laws from highest to lowest in authority are: 1) federal law, 2) state law and 3) local county or municipal laws. After these laws, a cooperative's governing documents rank in authority from highest to lowest as follows: 1) articles of incorporation, 2) bylaws, 3) subscription agreement, 4) occupancy agreement and 5) any rules, regulations or resolutions of the cooperative's board of directors.

Courts interpret the hierarchy of authority to mean that a federal law will control over any contradicting state law or local law. Similarly, a state law will control over any local law or cooperative governing document such as the bylaws or occupancy agreement and so on down the line of authority with each lower in authority rule or law, subservient to any higher in authority.

In practice this means that when the Centers for Disease Control (CDC), a federal agency, bans certain evictions, the CDC's federal ban will control over any lower state or local laws or rules that may permit those banned evictions. However, when the CDC's federal ban is lifted or expires, so long as there are no other state or local laws or regulations that ban evictions, the eviction can proceed.

For example, at the time this article was written (and this may be subject to change), Virginia has

no state-level ban on evictions. As a result, when the CDC eviction ban is lifted or expires, Virginia cooperatives will be able to evict members.

In contrast, in my firm's local jurisdiction of Washington, D.C., the D.C. Council banned evictions prior to the CDC's federal order, and the council will likely keep its ban on evictions after the CDC's federal order is lifted or expired. As a result, the removal of the CDC's federal ban will not allow evictions in Washington, D.C., to proceed since the local law will then apply. Similarly, if your state's governor has banned evictions, the lifting or expiration of the CDC's federal order will not permit evictions to proceed until the governor's ban is lifted or expires.

Which State Law Controls?

What if your cooperative is a Delaware corporation but is located in another state? Which governors' orders control? A cooperative or other business incorporated in Delaware only becomes subject to Delaware's rules as it relates to the corporate structure and governance of the corporate entity. Therefore, issues related to interpretation of the articles of incorporation and corporate reporting requirements will be governed by Delaware corporate law. Being incorporated in Delaware does not necessarily mean that other Delaware laws or regulations will apply.

If your cooperative is a Delaware corporation operating in another state, it is likely that your cooperative is registered as a foreign corporate entity doing business in the state of its physical location. This physical presence and registration as a foreign entity within the state will make your

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Daniel Costello practices real estate law at Costello, P.C. in Washington, D.C., working with condominiums, cooperatives, and homeowner associations in Virginia, Maryland and the District of Columbia.

cooperative subject to the state and local laws of the state that it is located in. Thus, a Delaware cooperative doing business and located in Washington, D.C., will seek eviction in a Washington, D.C., court and be subject to the District of Columbia's ban on evictions regardless if Delaware permits evictions at the time.

Using Your Cooperative's Rules and Regulations

While low in the hierarchy, the cooperative's rules, regulations and board resolutions can provide clarity and assist during these times. For example, your state or local government has issued rules stating that only essential businesses are permitted to be open and has included housing as an essential business. In response, the board can resolve that as a housing co-

Courts interpret the hierarchy of authority to mean that a federal law will control over any contradicting state law or local law.

operative, its staff and other employees are essential and provide a copy of the resolution to its employees as proof that they are essential. The resolution can be used as proof to any challenge that the employee is permitted to conduct business on behalf of the cooperative including traveling to work.

If your state has banned the issuance of late fees for delinquent carrying charges, the cooperative's board of directors can adopt a resolution to suspend the collection of late fees. Also, if within your state, gatherings or crowds of people are banned, the board of directors can resolve that community areas, gyms, playgrounds, club houses or any other place where residents congregate be closed. Before taking such actions, be certain to consult with your cooperative's attorney. Some states may require that if you close certain community areas that the residents be reimbursed a portion of their carrying charges used to operate those facilities.

Just remember, when evaluating a rule or law, look towards the hierarchy – first federal, then state, followed by local regulations for any rule or law that may contradict. If so, the rule or law higher in authority will control. CHQ

This content is for your information only and is not intended to constitute legal advice. Please consult your attorney before acting on any information contained here.



BOARD TRAINING SEMINAR

ROLES, RISKS & REWARDS

The 3Rs for Cooperative Boards

Roles, Risks and Rewards—The 3Rs for Cooperative Boards is a six-hour, in-person, seminar that will build your cooperative knowledge and show you how to work together as a board. The 3Rs seminar assists board members in developing excellence in governance right at their own cooperative!

Who should participate?

Housing cooperative board members, management and anyone interested in cooperative governance.

Download the information sheet and complete the application available on the NAHC website. Contact the NAHC office with any questions via info@nahc.coop or phone at 202.727.0797.





Can Employers Require the COVID Vaccine?

By Dawn McDonald

As the first Covid-19 inoculations to the first round of recipients begins, many employers who are battling to stay open, stay functioning and keep from going out of business are asking themselves if they can require their employees to get Covid-19 inoculation. The short answer is: YES. However, as with most things related to employment law, the answer is actually more complicated than a simple yes or no and requires a deeper analysis by employers.

Employees have a right to seek an exemption from an employer's vaccine mandate if they have medical grounds for doing so or if they have sincerely held religious beliefs.

mployers can require employees to get the vaccine if they want to continue to be employed. Most states, including Massachusetts and the surrounding New England states, are "employment at will" states. This means that employers have a right to set working conditions. The Occupational Safety and Health Administration (OSHA) actually requires employers to provide their employees with safe and healthy working conditions. However, there are significant exceptions to making this type of job condition that employers must be aware of.

Employees have a right to seek an exemption from an employer's vaccine mandate if they have medical grounds for doing so or if they have sincerely held religious beliefs. Workers can ask for alternative accommodations, such as use of personal protective equipment, working separately or working from home. These restrictions flow from the Americans with Disabilities Act (ADA) and Title VII of the Civil Rights Act of 1964. If an employee seeks an exemption for medical reasons, employers must engage in "the interactive process" with the employee to determine what, if any, reasonable accommodations can be made to keep the employee working productively while keeping the workplace and the employee safe. This means thinking about personal protective equipment, social distancing, changing work hours, remote working, etc.

These are just two of the factors that employers must consider when determining whether they should institute a vaccine mandate. There is the potential for significant liability concerns in mandating the vaccine, other than those related to the ADA and Title VII. What if an employee who did not request an exemption has a severe allergic reaction to the vaccine, causing significant illness and only got the vaccine because it was mandated by the employer? This scenario raises the specter of protracted litigation where early reports from the medical field are noting that while rare, adverse reactions in people who have a history of allergies are occurring.

What is an employer to do? Employers should weigh carefully the risks versus the rewards. There are certain industries that will make the vaccine a requirement due to the high risk or essential nature of the business, such as health care workers and first responders or grocery store workers and manufacturing employees. Instead of mandating vaccinations, consider "strongly recommending" that employees get vaccinated. As long as all employees are treated equally, consider offering incentives to employees who agree to get vaccinated. Provide your employees with available information from the medical field to help address their concerns regarding the safety of the vaccine. Remind employees that getting the vaccine is not an attempt to limit their rights, or autonomy, but rather provides them with more freedom of movement and a safer workplace from the virus. CHQ

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Dawn McDonald is a partner at Marcus, Errico, Emmer & Brooks, P.C. in Boston, Mass.



Members Engage in Cooperative Learning During NAHC's Inaugural Virtual Summit

President Fred Gibbs welcomed more than 100 members and shared highlights from NAHC's 60-year history during the association's first ever virtual summit, November 11-13, 2020. Participants spent three days engaging in eight educational sessions taught by 18 presenters.

he summit was very informative and also entertaining. I feel that the summit was well-planned and presented," wrote an unidentified participant in the evaluation. "All the presenters were knowledgeable and lively. I really enjoyed it."

Ralph Marcus, who participated on the panel, "Covid-19 Prevention and Preparation," along with Blaine Honeycutt and April Knoch, said he did not prepare differently for the summit than he would have for an inperson session. "I adapted well to the revised platform relative to content prep." Marcus said he also "engaged with students with a mixture of some comedic relief, along with the technical content of the class."

Although the workshops were prerecorded, Karen Harvey said she and Kim Marcus were present for the viewing of "Conflict Resolution," designed to help define conflict, describe conflict and discuss solutions to resolve conflict. She said they were available for questions and answers and provided their emails to the attendees so they could contact them with questions or concerns.

When asked what participants would change about the summit, one person wrote making the "Legal Landmine" and the "New Board" workshops longer. The landmine workshop dealt with legal developments affecting housing cooperatives. Presenters, Creighton Gallup, Knoch and Randall Pentiuk, wove scenarios and case studies into the material, illustrating the practical applications of these legal requirements, as well as showed the ramifications when cooperatives are not in compliance. Knoch said she took notes on questions that came through when she had an opportunity so she could respond when the time arrived. Linda Brockway, Greg Carlson, Gibbs and Annie Hill spearheaded the new board member panel discussion.

Another attendee wrote they would have liked more time for Kimalee Williams' workshop, "How to Manage Your

















focused on the expectations of the board and management, effective communication and steps to obtaining the proper guidance to handle common issues regarding reopening community rooms and site offices, managing those who refuse to comply with Covid safety measures, allowing a member to return home from a hotspot, preparing for evictions when courts re-open and convening annual meetings.

Property Manager." The workshop

Other workshops included Hugh Jeffers and Greg Daniszewski's "Financing for the Future" that explored the reasons cooperatives should seek new financing. The session also covered programs

available, pros and cons of different financing programs and why now is the time to move. And Denise Hill and Diane Miller's "Disaster Preparedness: Is Your Co-op Ready?" discussed emergency preparedness tips. This class concentrated on recent events and discussed how to prepare for a pandemic event such as Covid-19. Hill and Miller both wore masks for the presentation.

In addition to the workshops, Doug O'Brien, president and chief executive officer of the National Cooperative Business Association CLUSA International, discussed the various types of cooperatives that exist and the significance of NAHC's federal issues such as the Paycheck Protection Program, disaster relief (H.R. 5337) and reverse mortgages for housing cooperatives.

Members also had fun participating in the social sessions. They played a good old-fashioned round of Bingo, shared their skills in a talent show and tested their general knowledge in NAHC Trivia.

National Cooperative Bank, Economic Consultants for Housing Opportunities, Inc. and Centennial Mortgage sponsored the summit. CSI Support and Development, Legacy, LLC, Sustainable Opportunities for Life and Dreams, Inc. and Walker & Dunlop exhibited at the summit. CHQ



Membership Elects NAHC Board Members

At the November 2020 Annual Meeting of Members, the membership re-elected Fred Gibbs and Ruthie Wilder and elected Kim Marcus and April Knoch for three-year terms. The Midwest Association of Housing Cooperatives appointed Valerie Hall to replace retiring board member, Robert Kirkpatrick.

ibbs owns FKGibbs Company in Kansas City, Mo.; Wilder, treasurer of the Potomac Association of Housing Cooperatives, is a member of Reservoir Hill Mutual Homes in Baltimore, Md.; Marcus is the chief operating officer and regional property manager at Marcus Management in Farmington Hills, Mich.; and Knoch is an associate attorney with Pentiuk, Couvreur & Kobiljak, P.C. in Wyandotte, Mich. Hall is senior vice president of operations at Kirkpatrick Management in Indianapolis, Ind.

During the meeting, the members approved last year's minutes and heard officers' and committee reports and approved bylaw changes (see the sidebar for details). The member associations appointed board members: California Association of Housing Cooperatives, Norma Coignet Brown; Cooperative Housing Association of New England, Kimalee Williams; Council of New York Cooperatives & Condominiums, Mary Ann Rothman and Leon Geoxavier; CSI Support and Development Services, Rillar McDonald and Sheryl Morey; Federation of New York Housing Cooperatives and Condominiums, Greg Carlson; Midwest Association of Housing Cooperatives, Randall Pentiuk and Kathy Sinicropi; New Jersey Federation of Housing Cooperatives, Donna Marie Curvin; and Potomac Association of Housing Cooperatives, Anne Hill.

After the Annual Meeting of Members, the board convened its organizational meeting and re-elected officers: Greg Carlson, owner of Carlson Realty, Inc., Forest Hills, N.Y., as chairman; Gibbs as president; Randall Pentiuk, partner with Pentiuk, Couvreur and Kobilijak, P.C., as executive vice president; Karen Harvey as secretary and Hope Turner as assistant secretary, both members of Concord Consumer Housing Cooperative in Brownstown, Mich.; Ralph Marcus is president, chief operating officer and regional property manager of Marcus Management as treasurer and re-elected Hugh Jeffers, vice president of origination at Centennial Mortgage in South Bend, Ind., as assistant treasurer.

The board also elected to the Executive Committee: Linda Brockway of Economic Consultants for Housing Opportunities, Inc. in Lansing, Mich., and reelected Blaine Honeycutt, president of Georgetown Place Cooperative in Taylor, Mich., Wilder and Williams of Faith Asset Management, LLC in Hartford, Conn. CHQ



Cooperative Share Listing Program

A new NAHC member benefit is to help cooperatives post and list their available shares on the NAHC website for a small fee. If you have an available share, then the Share Listing Program is here to help. Click the logo to find out more.



Bylaw Amendments

Below are the highlights of the bylaw amendments the membership passed during the NAHC Annual Meeting of Members on November 14, 2020.

- The Bylaws Committee recommended a number of grammatical, punctuation and technical amendments to the document for it to read properly.
- The Bylaws Committee recommended revisions to NAHC's definitions of a cooperative, a housing cooperative and an affiliated association to be more technically accurate.
- **3.** The Bylaws Committee recommended that the Rochdale Principles be incorporated into the document.
- **4.** The Bylaws Committee recommended changes to the definitions of members to have 1) housing cooperatives, 2) organizational members, 3) individuals and 4) supporting members.
- **5.** Members who fail to pay dues according to the due date can be suspended for any period of time that dues remain unpaid.
- Members and directors may now waive notice of meeting in order to facilitate member meetings and board meetings in case of emergency.
- 7. The Bylaws Committee recommended a revised agenda for the Annual Meeting of Members to put the voting of directors near the beginning of the agenda, instead of amending the agenda every year to do so.

- 8. The Bylaws Committee reduced the voting strength of the larger affiliate members (such as regionals) from 18 percent to 15 percent, which in application makes it necessary for four of the larger affiliate members to carry the day's vote rather than three (3 x 18 = 54% vs. 3 x 15 = 45%, whereby needing one more group of votes to get over 50 percent).
- **9.** Meeting attendance can be electronic for both member meetings and board meetings.
- 10. Board members must sign several pledges annually—the Conflict of Interest Policy and Disclosure Form, the Board of Directors Code of Ethics, the Disclosure Statement and Board Member Agreement to perform duties responsibly.
- 11. The Bylaws Committee recommended that the name of the Contract Review Committee be changed to the Educational Training Services Review Committee.
- **12.** The Bylaws Committee recommended additional allowed indemnification language to protect board members individually, such as is permitted by law.

The recommendations of the Bylaws Committee were adopted by the Board of Directors and so approved by the majority of members of NAHC. $^{\text{CHQ}}$



NAHC Expands Virtual Learning Offerings

The RCM Board of Governors was pleased to expand our virtual educational offerings by presenting a valuable 2-hour training on February 18, 2021: National RCM Emergency Preparedness, Procedures, and Best Practices.



This exclusive training, sponsored by BELFOR Property Restoration, lead a class of 33 through emergency preparedness, procedures, and best practices. An engaging Q&A session invited attendees to ask personalized questions about their cooperative management.

Here are a few pro-tips that were shared during training.

Training at a Glance

Fire Prevention, Safety and Code Enforcement

Fred Gibbs (FK Gibbs Management Company, Kansas City, MO)

NAHC President Fred Gibbs offered training to on how to avoid fires and fire related injuries. He stressed the importance of bring awareness to common causes of fire deaths and injuries and inform RCMs of their professional responsibility toward fire safety and injury prevention.

PRO-TIP: Building block #1 – know your property.

- Identify and document utility shutoff location.
- Be aware of response times of your local fire department.
- Solicit the help of first responders when preparing your plan.
- Identify rendezvous points for displaced residents.
- Know the location of disaster shelters in your area.

Office Staffing and Pandemic Procedures

Nicole Redding (London Townhouses Cooperative, Chicago, IL)

This portion of the training covered PPE, staffing concerns, and covid-19 testing procedures for staff to prepare for "what if" scenarios.

PRO-TIP: If modified office hours are implemented for office staff...

- Designate personnel to monitor daily phone calls and follow up when working remotely.
 Make sure proper technology is in place (cell phones, computers, etc.) to support your efforts.
- Focus on customer service, patience and de-escalate emotional exchange to reduce stress for everyone.
- Implement virtual calls for board meetings, board members, staff and or residents when necessary.

Building Mechanical Systems

Ralph Marcus (Marcus Management, Farmington Hills, MI)

This session covered construction styles, variances prevention, and risk assessment. Ralph shared details of his Emergency Mechanical – What Happens If Plan (EM-WHIP).

PRO-TIP: Begin to establish A Flow Chart for each EM-WHIP system with both External Reporting (Municipality – Police, Fire, Water Dept., etc.; Emergency Response Contractors, Insurance Company, etc.) and Internal Reporting (Supervisor, Manager, Management Agent, Board of Directors).

- Who is likely to first realize a system failure? (Could it be multiple persons?)
- Who should the first-knowing person contact under EM-WHIP? (This, too, could be multiple persons!)
- How is first-knowing person(s) to contact EM-WHIP contact?

Storms, Floods, Blizzard, Tornadoes

Kimalee Williams (Faith Asset Management, Hartford, CT)

Preparing for severe weather is a reality facing the country and the world. RCM Trainer Kimalee Williams urged attendees to make a plan now which could save you time and sanity in the event of an emergency.

PRO-TIP: You need to ensure you check the vacant units routinely to address any potential damage.

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Virtual Learning Offerings

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Panelists



Greg Carlson, RCM - Moderator

Gregory J. Carlson is the Chair of the National Association of Housing Cooperatives (NAHC) Board, Emeritus Chair of the Registered

Cooperative Manager (RCM) program for the National Association of Housing Cooperatives (NAHC).



Fred Gibbs, RCM

Fred Gibbs is the owner and founder of FKGibbs Company, LLC, a Kansas City based Property Management Company, serving client organizations throughout

the United States. He has earned the designation of Registered Cooperative Manager (RCM) from the National Association of Housing Cooperatives (NAHC), where he also serves as President.



Ralph Marcus, RCM

Ralph Marcus is President and CEO of Marcus Management, Inc., specializing in full-service Cooperative housing management of 18 Cooperative

communities encompassing over 4,200 units, 17 condominium communities encompassing over 2,700 units, as well as management consulting.



Nicole Redding, CPM[©], ARM[©], RCM

Nicole Redding, a Chicago native, has worked in the Real Estate property management industry for over 30 years managing and supervising market rate, affordable, and mixed income

communities in Chicago, Wisconsin and Michigan. She currently serves as General Manager/Assistant Treasurer for London Towne Houses Cooperative located in Chicago, Illinois with 803 cooperative units and 8 rental units.



Kimalee Williams, RCM

Kimalee Williams is CEO of Faith Asset Management, LLC (a property management company) and Canterbury Builders (a construction company) located in Connecticut, Kimalee has over

twenty years of experience providing training and consulting services on property management, board/ management relations, agency relations, and more throughout the United States. CHQ

Visit www.nahc.coop/rcm-training to learn more about the panelists and future RCM training opportunities.



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Creating Affordable Cooperatives Is Akin to Layering a Cake: Part 2



Hugh Jeffers is originator at Centennial Mortgage.

By Hugh Jeffers

THERE IS TREMENDOUS interest in developing new housing cooperatives throughout the country as a way to address the current housing crisis and affordability. Renewed interest in cooperative housing is being driven by the following:

 Non-profit developers seeking to help individuals to grow wealth, establish control over their lives and create long-term affordability.

"...the most common of

all subsidies or soft money

sources include tax abatements

and long-term land leases from

local governments."

- Social justice "entrepreneurs" looking to rebuild communities that see cooperative ownership as consistent with their values.
- Like-minded individuals banding together to create homes and communities at a lower cost than the traditional rental model.
- Affordable housing for millennials and zoomers not looking for traditional home ownership.
- Senior cooperatives being driven by convenience of lifestyle and housing affordability.

One line of thought the runs through the renewed interest in cooperative development is the creation of affordable housing. Cooperatives are unique in their ability to create "affordable" housing in that they remove the profit motive that exists in the creation of other types of housing. As stated above, there is a shortage of affordable housing for lower-income groups, and there is significant incentive for local, state and the federal government to produce housing that is safe, clean and affordable.

Previously, I wrote about the need to bring "soft" money into a new housing cooperative to make it more affordable. The idea is to exchange a number of units in a cooperative that would be affordable to lower-income groups for low- or no-cost funding sources reducing the overall cost of capital required to pay for the total development. By doing that, you could create a cooperative that is more affordable to its members. To review, different types of "subsidy" or soft money are available in different jurisdictions. The most prevalent forms include:

- · Tax abatements.
- Direct grants.
- · Low-interest loans.
- Long-term land leases.
- Land donations from city/county/ state governments and
- Energy- efficiency grants.

The process is tricky, especially in today's economic environment, because traditional sources of soft capital are not as abundant as they used to be. In addition, cooperative developers have to compete with other types of housing, such as multifamily rental properties, for these limited resources. Most of the resources are local at this point with very few federal programs available for cooperative housing developers to access for the soft money needed to create affordability. That situation makes developing affordable cooperatives in different areas a much more difficult process since there is very little consistency between various jurisdictions.

During the 1960s and 1970s, the federal government, through the Federal Housing Administration and the U.S. Department of Housing and Urban Development (HUD), supported the development of affordable cooperative housing and multifamily housing through subsidized lending programs, primarily the 236 program and the

221 (d) (3) BMIR (Below Market Rate Interest) program. Both of these programs provided for loans for cooperatives (and rental properties) that were subsidized so that the interest rates were lower than market and more affordable. The 236 program provided a subsidy to each property that basically made the interest rate on their loan 1 percent. Most of the 221 (d) (3) BMIR

loans were subsidized to 3 percent. This rate stimulated significant development of affordable cooperatives.

In addition, HUD supported the development of cooperative housing by providing Project Based Section 8 contracts to new cooperatives. These contracts guaranteed a certain rental/carrying charge income to the property that was not dependent on an individual member's ability to pay. Essentially, these contracts paid the difference between the required carrying charge to pay for operations and debt service and what members could pay. It was a guaranteed income stream allowing the cooperative to borrow the money needed for development and pay for operations.

Based on this support, over 900 cooperatives loans were made through HUD insurance programs in the 1960s and 1970s. Most of those cooperatives still exist today and have proved to be far more durable than the rental projects developed during the same period. In addition, the cooperatives have proven far more effective than rental projects at creating long-term affordability.

Due to this proven track record for cooperatives, government at all levels should focus additional efforts on new cooperative development as a long-term solution in the creation of affordable housing. Additional low- or nocost resources need to be reviewed at the local and regional levels. For instance, the most common of all subsidies or soft money sources include tax abatements and long-term land

Continued on page 14 >

leases from local governments. Local jurisdictions should be encouraging cooperative development using those resources. Tax abatements should run at least as long as the blanket mortgage debt on the property, allowing the cooperative to take full advantage of the ability to borrow more loan dollars due to the lower property tax on the property. Favorable land leases should run well beyond the financing as well to again allow the cooperative to borrow the funds needed for development and lower operating costs. In addition, local governments should look to grant city, county and stateowned lands to developers for cooperative development to help defray overall development costs and allow for lower carrying charges (see the winter issue for more information on tax abatements and land leases).

There should be an effort at the federal level as well to stimulate cooperative development as a solution to the housing crisis. Since resources for soft money vary so greatly from one location to the next, the federal government could provide resources to help level the playing field for cooperative development. Efforts might include the following:

- Grant funding for non-profit developers to cover pre-development and application costs for funding to stimulate development.
- Grants or low-cost loans to bridge the gap in blanket financing and total development cost to make carrying charges and share prices more affordable.
- Consider re-evaluating the mortgage insurance premium for cooperatives and
- Look at re-instating on a limited basis some form of Project Based Section 8 to provide operating support to cooperatives.

NH Loan Fund Assist 2 Communities Become Cooperatives

THE NEW HAMPSHIRE

Community Loan Fund's ROC-NH™ team recently assisted two manufactured home rental communities purchase property from the same park owner and organize and form the 133th and 134th resident-owned communities (ROC) in the state.

The first was Rancourt Estates Mobile Home Park in Merrimack, N.H. The homeowners purchased their 44-unit manufactured-home park and organized and formed Jewel Estates Cooperative in June. The cooperative then matched the \$2.8-million price of the park's owner, Claude Rancourt, and finalized the deal on December 1

with a mortgage from the Community Loan Fund. Jewel Estates Cooperative is now Hillsborough County's 15th ROC with 1,028 long-term affordable homes.

The second is Rancourt Mobile Home Park in Derry, N.H. The members bought their 38-unit manufactured-home park and formed Granite Estates Cooperative, Inc. also in June. The cooperative then negotiated with the park's owner, Rancourt, reached a \$1.85 million purchase price and finalized the deal December 31 with a mortgage from the fund.

The price difference between the two transactions came about because the pre-sale engineering due diligence discovered substantial infrastructure issues in Granite Estates Co-op. For that reason, Granite State residents declined to purchase at the original price and counteroffered. The park's owner eventually agreed to their counteroffer if they could close within 10 days which they did.

To prepare for these undertakings, homeowners received training and technical assistance from ROC-NH™. Now that the community is resident-owned, they are eligible for products and services, like real mortgages, that haven't been available to them. Studies show that the availability of home financing, when the land is secure, improve the home's value, the owner's ability to make improvements and overall housing affordability.

Housing Foundation Grants Line of Credit to a Cooperative Foundation

GREATER MINNESOTA Housing Fund has provided Northcountry Cooperative Foundation (NCF) with a \$100,000 predevelopment line of credit to help NCF grow and expand its cooperative housing development programs. The loan

provides an early source of capital in NCF's cooperative conversion projects and allows NCF to perform due diligence work quickly and efficiently while avoiding tying up critical operating cash. Flexible sources of capital like the line of credit are a critical component of making affordable housing cooperative projects work.



From left, Jewel Estates Cooperative President Thomas Levesque and Treasurer Susan Sylvia, and ROC-NH Housing Cooperative Specialist Zachery Palmer.

From left, Granite Estates Cooperative President Lisa Melanson Buxton and Treasurer Tracy Glass.

PHOTOS COURTESY NH COMMUNITY LOAN FUND.



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UHAB Leader to be Inducted into the Cooperative Hall of Fame

THE COOPERATIVE Development Foundation has named Andy Reicher, executive director of the Urban Homesteading Assistance Board (UHAB), to the 2021 Cooperative Hall of Fame. Reicher's career developed in tandem with UHAB,



Andy Reicher

which was founded in the 1970s during New York City's economic crisis to help residents without stable housing reclaim abandoned buildings in New York City and help rehabilitate those buildings as their homes. During his four decades at UHAB's helm, New York City's low-income resident-run and resident-owned housing cooperatives have grown from several dozen to more than 1,300 buildings, providing homeownership

and permanent affordability to more than 30,000 households, most of them small buildings redeemed from abandonment.

UHAB realized that while self-help rehabilitation using sweat equity was a catalyst for revitalization and growth, there was still a need to address the issue around foreclosure of physically deteriorating buildings in the city's poorest neighborhoods. Turning the buildings over to community control was the idea that sparked the Tenant Interim Lease (TIL) Program. The program allows tenants in city-owned and tax-foreclosed buildings to form an association to manage and then purchase their buildings as limited-equity cooperatives.

For nearly 40 years, New York City contracted with UHAB to provide technical assistance to income-restricted cooperatives going through TIL. Under Reicher's leadership, programs for accounting and bookkeeping assistance, prepaid legal assistance and training and education programs from how to run a heating system and boiler to how to run an efficient meeting were developed. More recently, Reicher has steered UHAB's programs towards climate and social justice goals through access to share loans and expanded use of renewable energy in low-income communities and communities of color.

Today, New York City has the largest community of sharedequity housing cooperatives in the country. In 1989, UHAB and the TIL program were jointly awarded the prestigious Rudy Bruner Award for Urban Excellence.

In 2015, Reicher pioneered a vision for a nationwide coalition of cooperative housing practitioners and members to come together to grow, serve and strengthen the model of shared equity housing cooperatives. The Sixth Principle Coalition embodies the spirit of "cooperation among cooperatives" and united the national limited-equity cooperative community of over 165,000 units of housing, 40 organizations and more than 100 practitioners across the U.S.

The other inductees are Clark Arrington, Vern Dosch and Karen Zimbelman.



Clark Arrington

Arrington is senior fellow at Seeds Common, a national network of locally-rooted, non-extractive loan funds that brings the power of big finance under community control. Arrington is an experienced attorney and educator who has supported socially responsible businesses around the world. Prior to joining Seeds Common and The Working World, Arrington taught and practiced business law in Tanzania

and Tunisia. Arrington served as chair, general counsel and capital coordinator of Equal Exchange and has served on the boards of the ICA Group, the Social Venture Network and the Cooperative Fund of New England.



Vern Dosch

Dosch recently retired as the president and chief executive officer of National Information Solutions Cooperative (NISC). NISC is a billing and software cooperative established in 2000. Since his first job at an electric distribution cooperative, Dosch 's entire career has been focused on helping cooperative utilities provide quality, affordable service to consumer-members. Under his leadership, NISC, became a

leading provider of IT and software solutions to utility and telecommunication cooperatives, helping its members become more efficient and improve customer service while setting the stage for economic expansion in rural America.



Karen Zimbelman

Karen Zimbelman currently serves as senior director of membership and cooperative relations at National Co+op Grocers. She has worked with and for cooperatives at the local, regional and national level since 1980. Until mid-2007, she also served as executive director of Cooperative Grocers' Information Network (or Cooperative Grocers Network), a position

she had held since its founding in 1997. She was the founding executive director for two regional cooperative grocers' associations, establishing and managing regional supply agreements, promotions, training, audits and other programs.

UHAB Receives Front-Page Coverage in the New York Times

THE NEW YORK TIMES Sunday Real Estate issue featured UHAB on its front page on December 11, 2020. The article captured the challenging times that cooperatives are enduring under the pandemic. The New York Times also interviewed UHAB member and longtime friend and supporter, David Calvert, who shared the story of how his Housing Development Fund Corporation is faring in these times.

California Association of Housing Cooperatives (CAHC)

CAHC looks forward to welcoming former association members, Glenridge Cooperative and Ammel Park Cooperative Homes, both located in San Francisco. In addition, CAHC contributed \$1,000 to NAHC to help recover the revenue that the 2020 annual conference might have generated.

Council of New York Cooperatives & Condominiums (CNYC)

CNYC timidly ventured into cyberspace to hold its 40th Annual Housing Conference online in November, offering a choice of one of 12 morning classes and one of 12 classes in the afternoon. Several of the classes focused on aspects of coping with the pandemic, but registrants were equally interested in the basics of running their buildings and in energy issues. The virtual format enabled CNYC to hold a plenary session in the middle of the day with three important keynote speakers, Kyle Bragg, president of Local 32BJ SEIU, whose members work in many of CNYC's member cooperatives and condominiums, keeping the buildings clean and well-organized and the residents safe in these trying times, Manhattan Borough President Gale Brewer, who is a frequent guest at CNYC's annual event and Doug O'Brien, president and CEO of NCBA CLUSA, who explained his organization's role as the convener and advocate for all forms of cooperatives.

Because of term limits, New York City tends to have massive turnovers in elected officials at eight-year intervals. This is such a year. In November, New Yorkers will elect a new mayor, comptroller, ombudsman, borough presidents for the five boroughs and at least 35 new city council members. CNYC will try to get to know the various candidates and help them understand the special nature of our resident-owned and -governed homes.

CNYC's top local legislative priority this year is to extend an abatement program for homeowners in cooperatives and condominiums that has been around since 1997 but is now facing a variety of challenges. CNYC and FNYHC will advocate to extend this program for a number of years to give the newly elected officials time to work on long-anticipated property tax reform. With our Action Committee for Reasonable Real Estate Taxes, we push for fair, understandable and affordable taxes for New York taxpayers.

CNYC also continues its efforts to amend last year's reverse mortgage legislation to meet concerns that the governor expressed when vetoing that bill. Now, more New York seniors than ever urgently need these loans to be able to live out their lives in the housing cooperatives that have long been their home.

CSI Support and Development (CSI)

ON DECEMBER 21, 2020, CSI celebrated its 75^{th} anniversary with events throughout the year culminating with a virtual conference. One of the activities was a poster contest. Fortyfour members submitted artwork for CSI's 2021 calendar that reflected the cooperative's history, mission and cooperative spirit. Judges also considered the entrants' use



PHOTO CREDIT: KAY LEE

of creativity and originality. The winner of the artwork for the calendar cover received \$175 with the other awardees garnering \$75 each per month.

In honor of the celebration, CSI also designed a special logo and placed it on stationary, a lapel pin, a baseball hat, a fleece jacket, a flag and even on cookies. CSI treated members to the cookies, and each cooperative received a CSI 75th anniversary flag to fly outside of its building.

Besides celebrating, CSI has been fighting Covid-19. In January through its pharmacy partners, CSI launched the hosting of vaccine clinics at its cooperatives.

The Federation of New York Housing Cooperatives and Condominiums (FNYHC)

FNYHC has begun 2021 with an updated website design.

Midwest Association of Housing Cooperatives (MAHC)

MAHC will be hold its annual conference at the Hilton New Orleans Riverside in New Orleans, La., on June 27 - July 1, 2021. The conference will feature over 50 cooperative education classes taught by industry professionals and cooperative members. In addition, MAHC board members, professional advisors and staff will be available to meet with cooperatives to deliver training for members, board members and staff to mediate board disputes or to provide consulting services on a variety of cooperative matters.

In the interim, MAHC will present free webinars: "The New Board Members Class," June 6; "Knowing Your Legal Documents," June 20; "Evaluating Your Cooperative Board," July 18; "Effective Board Meetings," August 22; and "How to Use Zoom."

Next year's MAHC conference will take place in Denver on May 20-24 at Sheraton Downtown Denver.

New Jersey Federation Housing Cooperatives (NJFHC)

NJFHC continues to move forward through the Covid pandemic. Though at this time, NJFHC has not been able to meet formally, President Blonnie Watson continues to touch base with the presidents (leaders) of the active cooperatives on a weekly basis. She also assists when needed and continues to keep abreast of the memberships' cares and concerns as we maneuver through this health crisis. Watson encourages members to keep updated with NAHC's blasts, emails and Calls to Action as well to pay their membership dues in a timely fashion.

By Judy Sullivan

Promises Made, Promises Kept



AS WE LOOK forward to a new administration and Congress, there is hope--a hope that we will finally be able to bring the pandemic under control with vaccines and new leadership. And, hope that our country will cease to have the brutal partisanship that has divided us for so long.

One very bright development occurred several months ago, when Sen. Chuck Schumer, D-N.Y., held a Zoom call with leaders of the New York housing cooperatives, promising to make sure that housing cooperatives would be made eligible for the Paycheck Protection Program (PPP) in the next stimulus

bill. True to his word, Sen. Schumer made sure that housing cooperatives were in the stimulus bill passed by Congress in December. Along the way, he assigned his director of economic development to ensure that cooperatives would be in the measure. His office stayed in contact every step of the way. The director contacted U.S. Rep. Nydia Velasquez, D-N.Y., chairwoman of the U.S. House Small Business Committee, and at Sen. Schumer's request, her office added housing cooperatives to the bill.

I know many people have lost faith in Congress and our government to help us in times of need, but we also need to be reminded about members of Congress who are responsive to their constituents. Sen. Schumer is to be commended and thanked by all of us for ensuring that we were part of the latest stimulus package. What a friend we have in Sen. Schumer! He made a promise to help us, and he kept it. CHQ



Judy Sullivan is NAHC's government relations representative. She is also the recipient of NAHC's Jerry Voorhis and the Roger J. Willcox President's awards.

INTERNATIONAL COOPERATION

COOPERATIVE HOUSING

INTERNATIONAL (CHI) met in November to plan the International Cooperative Alliance (ICA) conference scheduled for Seoul, Korea, in December 2021. The following month CHI held a virtual forum that included members of the North American Students of Cooperation and the Students for Cooperation,

a democratic federation of student cooperatives across the United Kingdom. They and representatives from France, Germany, Korea, Malaysia and the United States presented exhibits of various programs occurring in their respective countries and discussed dealing with the pandemic. CHI members also described their organizations.

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THE RCM PROGRAM





The Registered Cooperative Managers (RCM) Program builds upon the work of cooperative housing management and helps the profession achieve ever-increasing higher professional standards, expectations, and rewards. The designation is awarded to managers who meet the RCM standards of excellence, understanding, and achievement in the area of cooperative housing management following participation in a series of courses, then pass certification exams. RCM course topics provide exciting insight into housing cooperatives and help develop skills necessary for a successful career in management. The courses refine the understanding of housing cooperatives, renewdedication to the principles of cooperative housing, codify the ethics of cooperative housing management, and improve housing management practices.

The Registered Cooperative Manager Certification Program is the only nationally-recognized designation and certification specializing in Cooperative Management recognized by the Registered in Apartment Managers (RAM program). RCM is a sought-after professional designation for cooperative housing managers. You can find the application and more information on www.coophousing.org.



The National Association of Housing Cooperatives