
Cooperative Apartments (Co-ops)

Ownership of a cooperative apartment project is by an entity (a corporation, partnership, or trust). A cooperative owner is essentially a shareholder of the entity, whose principal asset is the project. An individual purchaser does not receive a deed for this interest, but receives a share of stock with the right to occupy a specific apartment unit in the project. In return for stock, each shareholder executes a proprietary lease with the entity. The shareholder thus occupies, but does not own, the apartment unit. The shareholder pays a pro rata share of the entity's expenses, which may include mortgage charges, real estate taxes, maintenance, payroll, and other like assessments. The shareholder may deduct, for income tax purposes, a share of the taxes and interest charges under certain circumstances.

"Co-ops" as they are often called, are more popular in the eastern United States than in Hawai'i, where condominium ownership is more common. It can be more difficult to obtain financing for the purchase of stock in co-ops and, generally, co-op units sell for less than a comparable condominium unit.

A "leasehold co-op" means that the land under the co-op is leasehold, and ownership of the individual co-op units are by way of shares of stock with occupancy through a proprietary lease. The lease rent is shared on a pro rata basis among the shareholder/tenants.

A "fee simple co-op" means that the land under the co-op is owned in fee simple, and ownership of the individual co-op units are by way of shares of stock with occupancy through a proprietary lease. The lease and the stock are always sold together.

The proprietary lease, which gives the shareholder occupancy of the co-op apartment unit, may or may not have a termination date. Although the stock is usually assignable, the proprietary lease may have severe restrictions on the assignment of the stock. Any mortgages held by the co-op entity would be paid by the shareholder/tenant on a pro rata basis.

As for title insurance, the shareholder's policy will cover the proprietary leasehold interest as the title insurance only covers real property interests. The stock ownership in the fee corporation is not a real property interest and, therefore, will not be covered by title insurance.

Basic Differences Between Co-ops & Condominiums

In a co-op, the entity (corporation, partnership or trust) owns the project and the apartment dweller owns a proprietary lease and a corresponding number of shares in the entity. In a condominium, each unit is individually owned.

In a co-op, the entity may take out a mortgage on the entire project. In a condominium, there is generally no mortgage on the entire project; rather there are individual mortgages on those units not fully paid for in cash.

Upon resale, the condominium owner may sell to virtually any buyer who can pay the price. However, the co-op shareholder/tenant normally must obtain the Board of Directors' approval of the proposed purchaser or lessee. Thus, the Board could object to musicians, celebrities or notorious individuals. The Board, however, cannot violate State and Federal anti-discrimination laws.

As the Buyer of a co-op unit, I hereby acknowledge that I have received the above information, which explains the difference between co-op and condominium ownership. I am aware that I may consult with my own legal counsel regarding any questions I have regarding cooperative apartment ownership.

Buyer

Date

Buyer

Date