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Preserving the Cooperative into the Future

By Randall A. Pentiuk

As most cooperatives reach the point where their original mortgages are paid off, and the HUD Regulatory Agreement ends, a debate occurs on whether they should remain as a form of housing cooperative, or convert to condominiums. We have written an article on this debate and will not reiterate it here; rather this article will present some strategies to help those boards that want to remain as a cooperative by taking steps to prevent future boards or memberships from undoing the decision.

Which tool described in this article that is most suitable will depend on the political climate of your cooperative. Some of our clients have divisions among the board or membership that make it unfeasible to undertake the more extreme measures available. Thus, the starting point is to evaluate what can pass political muster in your cooperative.

Before undertaking any of these strategies, it is necessary to examine your cooperative's Regulatory Agreement to determine whether HUD approval is needed. In most instances, such approval will be required. Since this article is written at a time when there has been no reported attempts to secure HUD approval of any of these strategies, we do not know how HUD will react, and at what level – whether at the district office or at the national office – it will be made. While we suspect that HUD continues to support housing cooperatives as a superior form of home ownership, we cannot predict whether it will agree with the policy of binding future boards and members. To that end, we recommend that you await termination of the Regulatory Agreement in order to bypass the issue altogether.

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