

PART I

BASIC INFORMATION ABOUT RENTAL PARK CONVERSIONS TO RESIDENT OWNERSHIP

Part I describes a park conversion, the jurisdiction of the Department of Real Estate and, generally, the arrangements suitable for owning and managing a mobilehome park after conversion.

What is a park conversion?

In this booklet, the term conversion refers to the various aspects of a mobilehome park purchase by the residents. Conversion can involve transformation of a park to a type of common interest development where residents obtain title to, or some right of exclusive use of, their mobilehome spaces.

What is a common interest development?

In a common interest development, an individual owns or leases a separate lot, unit or interest together with an undivided interest or membership interest in the common area. The common area is usually governed and maintained by a homeowners' association of which each individual owner is a member. If a mobilehome park is sold or leased with the intention of creating separate interests for the residents, a Common Interest Development will result. See Part IV for a discussion of common interest developments.

What is the role of the Department of Real Estate?

The Department of Real Estate (DRE) regulates California real estate brokers and salespeople and the marketing and sale of subdivided real property in California. Basically, DRE's issuance of a final subdivision public report must precede the offering for sale or lease of lots or interests in a subdivision of five or more lots or interests. (Although the subdivider can advertise and accept refundable deposits for reservations pursuant to a preliminary subdivision public report.)

If a representation is made to residents that they will receive a lot or other separate real property interest in their mobilehome park as part of their participation in a park purchase program, a subdivision will be created.

What is a public report and what is its purpose?

A public report is a document which discloses to prospective purchasers significant aspects of a subdivision offering. Before DRE issues a public report, the subdivider must meet certain standards to safeguard buyers' purchase money, complete on-site and off-site improvements and, for a common interest development, produce governing instruments which address specific features of the project's operation and management.

Disclosures Regarding Tentative Prices

Prior to filing a notice of intention (to sell or lease subdivided lands), the subdivider of a mobilehome park that is proposed to be converted to Resident Ownership must, by written notice, disclose to the homeowners and residents of the park the tentative price of the subdivided interest proposed to be sold or leased.

The notice must indicate that the price is not binding and may change, without any liability on the part of the subdivider, due to unanticipated expenses: conditions imposed for approval of the conversion, increased financing costs, etc.

The subdivider must obtain a preliminary public report from DREP before distributing the tentative price disclosure notice.

Nonprofit Corporation's Exemption

Business and Professions Code Section 11010.8 exempts from the notice of intention/public report requirement a nonprofit corporation's purchase of a mobilehome park, provided:

1. The nonprofit corporation obtains a permit from the Department of Corporations.
2. All shareholders of the nonprofit corporation are residents of the mobilehome park.
3. A majority of the shareholders constitute a majority of the persons who own mobilehomes within the park.
4. A majority of the governing body of the nonprofit corporation own mobilehomes within the park.
5. All funds of mobilehome park tenants for purchase of the

mobilehome park are deposited in escrow until title to the park passes to the nonprofit corporation.

Is subdivision of the park a necessary part of conversion?

It is not necessary for park residents to subdivide a mobilehome park in order to own and assume control of it. Indeed, subdividing a park during conversion may result in untimely delays while the subdivider satisfies local, city or county requirements and completes the information and documentation required to obtain a public report.

Instead, park residents may use a two-step approach to conversion. First, the park is purchased as a single property by a resident organization which, in a majority of cases, is a nonprofit corporation created for this purpose. Participating residents become shareholders or members of this corporation. Later, the corporation subdivides the park, obtains a public report, and sells (or leases) the subdivided interests to the residents.

What is the value in creating a nonprofit corporation?

Park residents need a legal entity to purchase their park. A nonprofit mutual benefit corporation is well suited to this purpose.

In general, the nonprofit corporation makes an offer of participation to the residents. Residents who decide to participate become shareholders or members in the corporation. As residents purchase shares or memberships in the corporation, cash is accumulated for the downpayment required to purchase the park. The officers of the corporation, elected by the members and acting on their behalf, negotiate with the seller to purchase the park and solve problems relating to conversion. After conversion, the corporation may manage the park.

Legal Advice

Inasmuch as memberships in a nonprofit corporation are subject to the requirements of the Corporations Code, competent legal advice should be sought prior to formation of a corporation. Unless an exemption is available, a permit from the Department of Corporations (DOC) is generally a necessary prerequisite to issuance of memberships in a nonprofit corporation. It is also recommended that

incorporation of the residents' organization be handled by legal professionals. A standard corporation or a general or limited partnership are alternatives to a nonprofit corporation. Before committing to any type of organizational form, the residents should explore the advantages and disadvantages and obtain legal advice.

Exemption from DOC and DRE Jurisdiction

In order to preserve the stock of affordable housing, government financing and subsidies are sometimes used in conjunction with conventional financing to purchase a park with few amenities and generally low-income residents. Ownership of the park is by a nonprofit corporation which typically does not issue stock or memberships. The residents' organization should contact the DOC and DRE to determine if this arrangement is exempt from the jurisdiction of either or both of those agencies.