

PART IV

If we decide to subdivide, what are our options?

If residents decide that they wish to convert their park to a subdivision, a choice must be made as to what type of subdivision is most suitable to their needs. There are three main types of common interest developments to which a park might be converted: condominium, planned development, or stock cooperative.

Condominium

A condominium consists of:

- a separate interest in space; and
- an undivided interest in common in real property (the common area).

The separate interest or the common area may be filled with air, earth, or water, or any combination thereof, and need not be physically attached to the land except by easements for access and support. A condominium is especially adaptable to mobilehome park subdivisions because the separate interest may consist of a cubicle of air space without reference to a structure.

Typically, an owner's interest in a condominium is evidenced by a deed conveying both the separate air space and an undivided interest in the common area. The boundaries of the air space and common area are described on the recorded final map or condominium plan for the project. The owner may obtain title insurance on the interest.

As is the case in all common interest developments, an elected governing board manages the common area on behalf of all the owners. The declaration of restrictions requires that each owner be a member of the homeowners' association and that the association has the power to assess owners for their share of the operational costs of the common area. Generally, assessments are secured by the power to place a lien against an owner's interest.

Before agreeing to finance a condominium project or make individual loans secured by condominium interests, institutional lenders usually

require assurances that the lien securing assessments of the owners' association will be subordinated (junior) to the lender's deed of trust or mortgage. However, the lender must agree to be bound by the declaration of restrictions for the project.

Planned Development

A planned development consists of:

- parcels of land owned separately by residents;
- other parcels (common area) held in common by all residents or, more typically, deeded to an association of homeowners; and
- an association of owners with the power to assess residents for maintenance and repair of the common areas. The assessment may become a lien on the separately owned parcel of a nonpaying owner. The lien may be foreclosed upon and the property sold by the homeowners' association in a manner prescribed by law.

Stock Cooperative

In a stock cooperative, a corporation is formed to hold title to real property in fee simple for a term of years. Each shareholder of the corporation receives an exclusive right to occupy a portion of the real property and a share of stock or a certificate of membership. The right of occupancy is transferable only with concurrent transfer of the membership or share of stock.

As a general rule, the Department of Real Estate will not issue a public report on a stock cooperative if a blanket loan covering the entire park is proposed, unless the lender agrees to subordinate the loan to the governing instruments of the project. The lender must also agree not to foreclose against delinquent members or shareholders of the stock cooperative even if the corporation holding title to the park is unable to make its payment to the lender.

Problems may be encountered in financing the purchase of a share in a stock cooperative because the loan may not qualify as a real property loan and different lending criteria may apply. Publicly assisted financing programs have helped to reduce this financing difficulty.