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Housing Initiative Clinic Briefs

Resale Formulas for Limited Equity Housing Cooperatives

By Vicky Ortuondo, '13, July 2011

This Housing Initiative Clinic Brief describes the considerations that go into establishing the resale price formula for limited equity housing cooperatives. For background information on the basic structure of a limited-equity housing cooperative, see Housing Initiative Clinic Briefs – Limited Equity Housing Cooperatives.

In limited equity co-ops, the primary goal is to preserve the affordability of the units for co-op residents. In order to do so, the resale value of the shares which the residents own in the cooperative is intentionally restricted. The maximum resale value is predetermined by a formula established in the cooperative's bylaws. The process of designing a resale formula involves a number of trade-offs between conflicting social goals, economic interests, and practical concerns. It usually involves making a set of hard choices that define the rights and responsibilities of many people. To avoid difficulties in the future, this process should be inclusive and deliberate, and not rushed.

Primary Goals

The two goals of a limited equity resale formula are to maintain affordability of the co-op over time, and to give the present co-op member a fair return on her investment when she resells her co-op home.

There is a tension between these goals. Co-ops must decide what is fair and what is affordable and design a formula where the two goals are balanced.

Secondary Goals

A set of secondary goals must also be accommodated in setting the resale formula. These may include:

- *Encouragement of long-term occupancy, avoidance of incentives for quick resale*. Limted equity co-ops have a basic interest in promoting stable neighborhoods and providing long-term security for their residents. They do not intend to provide a means for homeowners to make a quick profit and fast exit.
- *Promotion of homeowner mobility.* If a co-op is to provide permanent benefits for lower income people in an increasingly mobile society, it should allow resale prices high enough to allow members to make enough money from the sale of their unit to be able to afford to buy elsewhere when they move. This goal might conflict with long-term occupancy goals of co-ops and neighborhood stability, or may run contrary to the affordability goals of the limited equity coop.
- *Incentives for sound maintenance*. Limited equity co-ops also want the resale formula to reward an owner's investment in property maintenance, or penalize poor maintenance, so

as to avoid deterioration of homes and the erosion of their future usefulness for the community.

- *Incentives for useful improvements*. The resale formula can be used to encourage certain kinds of investments by co-op members and to discourage others. For example, a co-op may want to encourage weatherization and other energy-saving improvements or the expansion of smaller homes to accommodate larger families, and may desire a resale formula that allows owners to re-coup the costs of such improvements. In some urban locations, co-ops may decide that small residential lots are already optimized and may want to discourage substantial additions. Sometimes improvements may be discouraged when co-ops want to incentivize homeowners to move out of these "starter homes" when their fortunes increase and make room for the next low-income, first-time buyer. Such investments are discouraged by crafting a resale formula that does not permit co-op members to recoup their costs in making those investments.
- *Ease of comprehension by those affected*. In balancing many goals, the resale formula can become very complicated. It some cases, they can be difficult for potential or actual limited equity co-op homeowners to understand and implement. Sometimes a formula that is more accessible to co-op members but allocates value less precisely might be more favorable.
- *Ease of administration*. Formulas that require extensive record-keeping or frequent detailed assessments of the value of improvements may be very fair in theory, but they may be beyond the capacities of the limited equity co-op to administer for many homes over many years. Ease of monitoring and documentation are important priorities for a resale formula.

- *Lack of intrusiveness; sense of ownership*. It is important for limited equity homeowners to feel that they are "real" owners with the same sense of privacy and control over their homes that conventional owners have. A formula that requires frequent inspections and prior approval of repairs and improvements can undermine this sense of ownership.
- *Avoidance of disputes*. All formulas can involve a tension between the co-op member and the larger co-op's interests. Disputes can arise from this tension but they can be minimized to the extent that the formula does not require subjective, debatable judgments on the part of the managers or board in determining resale prices.

The Housing Initiative at the Mandel Legal Aid Clinic has counseled many limited equity co-ops in devising resale formulas, and has assisted in drafting co-op bylaws, occupancy agreements, proprietary leases, and other documentation involved in a co-op's operation. Contact us for more information on how we may assist your organization with related issues.