Cooperative Housing Compendium

Resources For Collaborative Living

Edited by
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Center for Cooperatives
University of California, Davis

To Sivan and Yermie Cohen
and all the other young Californian Cooperators

Cover design by Byrd Bettis

The research leading to this report was financed by the University of California Center for Cooperatives as a part of its Competitive Grants Project

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Acknowledgements

This *Cooperative Housing Compendium* was prepared under auspices of the Center for Cooperatives at the University of California at Davis. In 1990, Lottie Cohen was awarded a grant to write a report about the various types of cooperative housing in California. In 1993, this book emerges, a needed and timely addition to the much too sparse collection of materials on cooperatives. Yet it would never have been written without sponsorship and an important research grant from the Center for Cooperatives.

We were motivated to undertake this *Cooperative Housing Compendium* because it was the first time the State of California had a Center focused on all types of cooperatives. Our deepest thanks to Dr. Leon Garoyan, former Executive Director, and Dr. Dewey Bandy, the former Housing Specialist, at the Center for Cooperatives for their patience, editorial support, and encouragement. Since the advent of Dr. Mahlon G. Lang as the new Executive Director on April 1, 1993, we are very appreciative of his sensitive attention to the publication process.

Next, we must thank Lottie's family. Her husband, Dr. Yoram Cohen, writes his own books about the effects of pollution. In this instance, he was wonderful when he took care of the kids, and, after they fell asleep, generated graphics and the index for the compendium. Her daughter, Sivan, completed an artist book about Mommy writing a book. We think she missed her Mommy. And little Yermie was always willing to hug Lottie, no matter how sleepy he was when she came home.

Many passages are quoted or adapted from previously published articles written by other cooperators. Many of the definitions in the Glossary were adapted from several resources credited in that section. Chapter 2 (Choosing a Legal Structure for Your Community) is an edited version of an article by Albert Bates and Alan Butcher published in the *1990 Directory of Intentional Communities*. Chapter 3 (The Need for a New American Dream), a portion of Chapter 12 (Cohousing), Chapter 14 (Collaborative Housing), Chapter 15 (Community-Based Approaches to Permanently Affordable Housing), Chapter 16 (Mutual Housing Associations), and Chapter 17 (Community Land Trusts) are from research papers by Linda Ashman, a graduate student at UCLA's Graduate School of Architecture and Urban Planning. Chapter 4 (Distinguishing Cooperative Housing Corporations from Condominiums) borrows a passage, The Co-op Choice, from William Coughlan, Jr. and Monte Franke's book *Going Co-op*.

A portion of Chapter 5 (Limited-Equity Housing Cooperatives) is adapted from a still-timely article by Joel Rubenzahl and Al Bonnett. Chapter 6 (Intentional Communities) was written by Geoph Kozeny of the Fellowship for Intentional Communities, whose Community Catalyst Project is educating groups throughout the country on this topic. In Chapter 7 (Live/Work Spaces) a structure called a gohome, created by Ted Smith in San Diego, is described. This was adapted from a chapter by Karen Francke from the book she co-edited with Sherry Ahrentzen entitled *New Households, New Housing*. Ruben Ramos and Marta Erissman of the Rural Community Assistance Corporation helped substantially on Chapter 8 (Mobile Homes).

Chapter 12 (Cohousing) includes an article by Jim Johnson which originally appeared in the *Sacramento Bee* on the occasion of the first anniversary of the Muir Commons Cohousing Community. A second article in Chapter 12 by Joyce Cheney of

St. Louis, which appeared in *Neighborhood Works*, describes the application of cohousing to inner city affordable housing projects. Chapter 13 (Shared Housing, Urban Cooperative Blocks, and Village Clusters) describes a number of variations on a cooperative theme adapted from materials provided by Ken Norwood, AICP, of the Shared Living Resource Center. Ken also provided the designs for that chapter and several other graphics throughout the compendium. Herb Levy of the National Association of Housing Cooperatives contributed substantially to Chapter 20 (Government Financing).

Lottie Cohen wrote Chapters 1, 7, 8, 9, 11, 19, 20, 21, and 22, and contributed to Chapters 2, 4, and 8. Lois Arkin wrote Chapter 10 on Eco-Villages. Lottie and Lois collaborated in composing Chapters 12, 13, 18, and 23, the Resource Directory, Glossary, and Bibliography. Many other smaller quotes are identified and acknowledged in the text, notes, references, and Bibliography.

Many illustrations were created especially for this *Cooperative Housing Compendium* by Thomas Slagle. The cooperative spirit is wonderfully alive and well in Thomas, and readers will see that in his drawings. Byrd Bettis designed the cover. The CoHousing Company provided the layout of Muir Commons in Chapter 12. David Spellman created the Los Angeles Eco-Village conceptual renderings in Chapter 10. We thank them all.

Our research and production team was fabulous. Results count, and the content, accuracy, and desktop publishing refinements were only possible with the efforts and enthusiasm of Helene Wagner (a UCLA Graduate School of Architecture and Urban Planning student), Jennifer McCaffrey, Dekki Moate, Jeanne Desilets, Sherry Boardman, and computer gurus Scott Wlaschin and Brad Mowers. Ryan Lehman was invaluable in helping to shepherd the *Cooperative Housing Compendium* to completion by typing in all the changes on the computer in the final months before publication. Computer friend Brad Mowers was invaluable in helping with the final book format. Mary Maverick and Dianne Herring helped with copy editing and Ilia Howard assisted in copy editing on behalf of the Center for Cooperatives. We thank them all.

Then, can you imagine this epiphany? When Lottie first came to Los Angeles, she hooked into the cooperative movement from "whence she cometh" by joining the Board of Directors of Co-opportunity Consumers Cooperative in Santa Monica. The year was 1981 and Jeff Tucker was President. She had not seen Jeff Tucker for ten years, but lo and behold there he was in 1992 as the bearer of two scrumptious organic dinners during several of our critical long nights of production. In the cooperative movement, what goes around comes around. Thus, our greatest appreciation goes to long haul cooperatively minded people like Jeff Tucker who have a lifelong goal of building cooperative spirit everywhere.

A work of this nature is always a new learning experience, an opportunity to rethink things one knows about. After all, that is why one writes, edits, and compiles materials to share. But something quite magical happens in the rethinking process. Information is synthesized in new and unique ways as one carries on the dialogue with colleagues and friends. A new excitement is born of the process, a new enthusiasm to share! We look forward to the continued sharing of this process in the coming decade and give thanks once again to the many who have helped bring this work to fruition.

Introduction

This *Cooperative Housing Compendium*, like most cooperatives, will be a friendly place to learn about cooperative-style housing. Although there will not always be room for everyone to have a single-family detached house in California, there are many ways that people combine their resources for group-oriented housing arrangements. From housing cooperatives to intentional communities, from cohousing to condominiums, from rural clusters to urban eco-villages, Californians are experiencing new lifestyles made more economical, more ecological, and more socially enjoyable by involving others.

Over a dozen cooperative-style housing arrangements are described herein. The physical, governance, legal, and economic differences and similarities in the many ways people are collaborating will greet the reader from a variety of perspectives as we consider the following types of housing:

- Cooperative Housing Corporations
- Limited-equity Cooperatives
- Cohousing
- Intentional Communities
- Live/Work Housing
- Mobile Homes
- Student Cooperatives
- Eco-Villages
- Special Needs Housing
- Shared Housing
- Collaborative Housing
- Community Land Trusts
- Mutual Housing Associations

This volume also offers an extensive Glossary, a Bibliography replete with ordering addresses and prices, a Resource Directory, Index, and a selection of graphics.

In the past decade, numerous informative books and articles have been published about collaborative and cooperative housing. Adapting one of the cooperative principles to read "cooperation amongst cooperative authors," many eloquent passages from those original sources are quoted within. Where an authoritative publication on a particular topic has been published, readers will be directed to that resource.

For instance, the U.C. Center for Cooperatives sponsored research for both this *Cooperative Housing Compendium* and three complementary research reports that are recommended to the "co-op-phile"—namely, *California's Lower-Income Housing Cooperatives*, by the Agora Group focusing on finance; *Characteristics and Operational Performance of California's Permanent Housing Cooperatives,* by Dewey Bandy; and Allan Heskin and Jackie Leavitt's research profiling particular cooperatives. The CFC also publishes the California Cooperative Directory and Resource Guide, which lists over 200 actual housing cooperatives alive and well in California. These publications can be ordered from the Center for Cooperatives.

In addition to describing the legal forms and social substance of various cooperative-style housing alternatives, this compendium explores methods of cooperative development and preservation. Cooperative-style housing cannot be developed without financing, and cannot become mainstream without a guiding vision of the trends that are shaping our future. Parts IV and V are comprised of five chapters on financing and future trends. Our intent is to provide the reader with a full range of options that can secure a better quality of life as we move into the 21st century.

Although the focus of this *Cooperative Housing Compendium* is on cooperative-style housing in California, this volume will be useful as a general introduction to the topic for readers everywhere. The corporate, housing, and tax laws vary with each state. The available sources of financing are different for each locale and undertaking. With this in mind, the editors hope that all readers will learn from and enjoy the text.

A first edition of this kind always calls for supplements and revisions. The editors would be very grateful to receive any comments, factual data, and copies of other source materials which the reader thinks would be helpful for the next edition. Please send all material to Lottie Cohen, 5200 West Century Boulevard, Suite 950, Los Angeles, California 90045-5900, Phone (310) 215-9244, Fax (310) 645-5269. Thank you for your cooperation.

Lottie Cohen
Lois Arkin

PART I

Legal Form and Social Substance

Chapter 1

Comparing Forms of Cooperative Housing

OVERVIEW OF LEGAL FORMS FOR COOPERATIVE-STYLE HOUSING

Cooperative-style housing is a unique combination of legal form and social substance. Although there exists only a handful of legal forms for holding title to real property interests, these forms can be applied towards the creation of a variety of socially-responsible, environmentally-sensitive cooperative-style living arrangements. While some housing arrangements represent specific legal forms, such as "cooperative housing corporations," "condominiums," and "limited-equity cooperatives," many other types of cooperative-style housing groups may utilize one or more existing legal forms to achieve their social, ideological, and governance goals.

This chapter sets forth the legal forms whereby cooperators may own or control real property. A series of tables illustrates how elements of legal form, social arrangements, and physical layout can be combined. This chapter also presents a comparison of cooperatives and condominiums, a topic being hotly debated in Southern California.

LEGAL ENTITIES FOR OWNING OR LEASING REAL PROPERTIES

There are five basic ways to own or lease real property. The following legal entities or "persons" may own or rent real estate:

1. Corporations
2. Partnerships
3. Individuals
4. Trusts
5. Unincorporated associations

Corporations
Corporations are regulated by the Secretary of State and Department of Corporations. There are different types of corporations that may own real estate and develop housing, including cooperative housing corporations, nonprofit corporations, regular for-profit corporations, and limited-equity cooperative corporations. Chapter 2 discusses the different types of nonprofit and profit corporations. Chapter 4 explains cooperative housing corporations. Chapter 5 sets forth the special provisions which define limited-equity housing corporations. Corporations are separate legal and taxable entities, although the Internal Revenue Code contains favorable tax treatments of cooperative housing corporations. See 26 United States Code §§ 121(d), 216, and 1034(f).

Partnerships
Partnerships are of two types: limited and general. Partnerships are controlled by written contracts. Although partnerships are not separate taxable entities, they must file state and federal information returns. California registration of partnerships is with the Secretary of State, and a fictitious business name statement should be filed with the county. Laws which regulate partner-

ships include the Uniform Partnership Act, California Corporations Code §§15001-15045, and IRC §701-761. Partnerships often present a less costly, more flexible means of controlling real property, because partnership agreements can be formulated to match the cooperators' social, economic, and governance prerequisites.

General partnerships are for people who want to jointly share rights, responsibilities, and liability in the housing project. By contrast, limited partnerships establish both a "general partner," who assumes leadership and financial responsibility, and a number of "limited partners," whose decision making and financial investments are narrowly limited to the terms of a binding limited partnership agreement.

Trusts
There are private trusts and public nonprofit trusts. The most notable type of trust in the context of cooperative housing is the community land trust (CLT), described in Chapter 17. A CLT can be made irrevocable, meaning that the land and units may remain permanently affordable without interference from profit-seeking speculators. Some HUD housing projects built 20 to 30 years ago are currently debating their options: whether to become CLTs or limited-equity cooperatives or else to convert to market rate housing. See the description of HOPE in Chapter 20.

Unincorporated Associations
Unincorporated associations are regulated by California Corporations Code sections 21000 to 21103. Although unincorporated associations may hold title to real property, this is not commonly done for cooperative-style housing, except in cases such as when cooperators buy or lease a large house.

Individuals
Individuals may hold title to real estate as follows: tenancy in common, joint tenancy, community property, or tenancy in partnership. In Table 1.1, Concurrent Co-ownership Interests, the various rights people have in these arrangements are explained. Depending upon the manner in which title to property is vested, different rights are granted.

There are only a few ways to create a legal interest in real estate. These include ownership of a stock cooperative share (which includes a long-term proprietary lease), a condominium interest, a fee simple, a leasehold, or an estate for years. See Table 1.2, Legal Options for Various Types of Housing Arrangements.

CHOOSING THE BEST FORM

The question is often asked as to which form of cooperative-style housing is best. The answer is that the laws in California are flexible enough so that groups can create legal structures to accommodate the social and financial needs of their cooperatively-minded development groups. Generally, if the number of units is small (around 15), then the group would fare best with a partnership arrangement with proprietary leases.

The corporate form (see Chapters 2 and 5 for types of corporations) is better suited for larger groups. Because corporations are more highly regulated at the State level, they can be more expensive and bureaucratic to run for small groups. If the group (large or small) wants to preserve the affordability of the units, deed restrictions, community land trusts, mutual housing associations, or limited-equity cooperatives are suggested.

For example, a cohousing group ready to develop can make an educated decision as to what legal form to utilize, whether a condominium homeowners association, a stock cooperative, a partnership, a limited-equity cooperative, or a leasing cooperative. The group can become part of a community land trust or mutual housing association. The group can establish its savings and reserves plans through a mutual housing association or with the NCB Savings Association (see Chapters 16 and 19).

Other groups that want to live cooperatively do not have to start their own legal entity. Often, the group can shop around for an existing community that meets its needs. Through natural attrition over time, members of the group can move into the pre-existing community.

The same flexibility applies to most forms of collaborative housing. Although certain types of cooperative housing are defined by their legal structure (for example, stock cooperative, limited-equity housing cooperative, condominium, or partnership), other types of cooperative housing may use any of these legal forms in conjunction with legally overlapping elements that will preserve affordability, restrict usage, and interface with mutual housing associations. Thus, housing types such as shared housing, special needs housing, or live/work housing may describe the physical layouts or function of the units, while the aforementioned legal forms describe their ownership. See Table 1.3, Physical Options for Various Types of Housing Arrangements, for the interface between physical/functional types and legal forms.

The various types of housing described in this *Cooperative Housing Compendium* can thus be either created or transformed into a legal form that best suits the needs of the group. When choosing, however, the community should be well informed and select carefully. It is strongly suggested that a knowledgeable attorney be retained to provide advice regarding the most appropriate specific manner of holding title. For instance, once a parcel is granted to a community land trust or once deed restrictions are recorded that limit usage or return on investment, these choices are virtually irreversible. As discussed later, the financing and development packages can determine the size, constituency, and legal form of the cooperative housing (see Chapters 19 and 20). Innovative developers and lenders, however, are becoming comfortable with the newer forms of housing, such as mutual housing associations and limited-equity cooperatives.

Not all cooperative housing units are designed for low and moderate income families. There are also famous high-rise Wilshire Boulevard co-ops with valets and concierges. We have all heard about the Park Avenue Cooperative in New York City that excluded former President Richard Nixon. These types of cooperatives are built by speculative developers, who often stand to get very rich on such projects. Purchasers of these units command high market prices when they are sold.

Those who want to live in cooperative-style housing have the option of creating it themselves or searching for the appropriate community. Either way, one must study seriously the various legal forms of cooperative-style housing in order to make informed choices. The Tables described below and presented at the end of this Chapter illustrate many of the different types of cooperative-style housing available.

TABLES FOR FUN AND INFORMATION

Table 1.1, Concurrent Co-Ownership Interests, outlines the legal parameters of the various ways individuals can own property together.

Table 1.2, Legal Options, compares legal options to various types of cooperative-style housing. The group legal forms (except for condominiums and leases) are described in greater detail in Chapter 2. Table 1.2 reveals, most generally, the tendency for certain types of housing to be built under the auspices of certain legal forms.

Table 1.3, Physical Options, shows the shape of housing by comparing an array of physical forms to the various types of housing arrangements. Some types of groups use only multi-unit dwellings, while other types of cooperative-style living can fit within almost any architectural arrangement.

Table 1.4, Governance And Decision Making in Relation to Various Types of Housing Arrangements, suggests the range of possibilities in this area. Many an expensive law suit has resulted from unresolved conflicts, the nemesis of every co-op that does not properly attend to its communication processes.

Table 1.5, Conflict Resolution Options, is included to suggest the broad range of options available. Tables 1.4 and 1.5 are open for the reader to ponder and fill in on the basis of his/her experience, knowledge, and preferences.

Readers are invited to return copies of their completed Tables to the editors for possible inclusion in the next edition of the *Cooperative Housing Compendium.*

In providing these tables the editors have tried to show the reader the diversity of options that collaborative living groups have for ownership, governance, and the physical design of their housing. Readers will note that although certain qualities seem to go together more often than others, the options are very open. The tables are intended to be used as guidelines. Those who want to live cooperatively will continue to find new ways of doing it!

This chapter was written by Lottie Cohen.

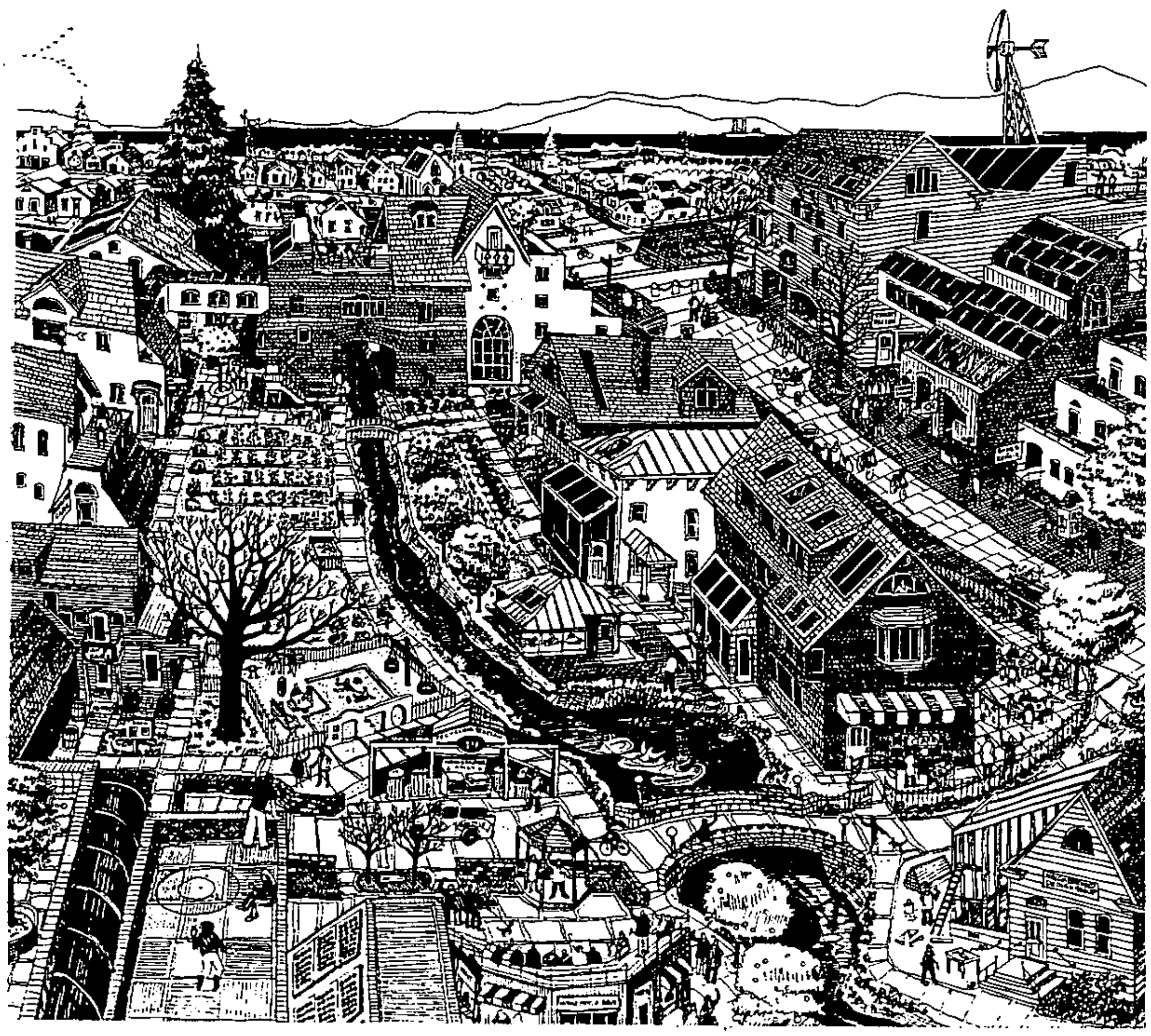


Table 1.1 Concurrent Co-Ownership Interests

	TENANCY IN COMMON	JOINT TENANCY	COMMUNITY PROPERTY	TENANCY IN PARTNERSHIP
PARTIES	Any number of persons (can be husband and wife).	Any number of persons (can be husband and wife).	Only husband and wife.	Only partners (any number).
DIVISION	Ownership can be divided into any number of interests, equal or unequal.	Ownership interests must be equal.	Ownership and managerial interests are equal, except control of business is solely with managing spouse.	Ownership interest is in relation to interest in partnership.
TITLE	Each co-owner has a separate legal title to his/her undivided interest.	There is only one title to the whole property.	Title is in the "community." Each interest is separate but management is unified.	Title is in the "partnership."
POSSESSION	Equal right of possession.	Equal right of possession.	The co-owners have equal management and control.	Equal right of possession, but only for partnership purposes.
CONVEYANCE (TRANSFER OF PART OR ALL OF TOTAL)	Each co-owner's interest may be conveyed separately by its owner.	Conveyance by one co-owner without the others breaks his/her joint tenancy.	Personal property (except "necessaries") may be conveyed for valuable consideration without consent of other spouse; real property requires *written* consent of other spouse, and separate interest cannot be conveyed except upon death.	Any authorized partner may convey whole partnership property. No partner may sell his/her interest in the partnership without the consent of co-partners.
PURCHASER'S STATUS	Purchaser will become a tenant in common with the other co-owners in the property.	Purchaser will become a tenant in common with the other co-owners in the property.	Purchaser can only acquire whole title of community; cannot acquire a part of it.	Purchaser can only acquire the whole title.
DEATH	On co-owner's death his/her interest passes by will to heirs. No survivorship right.	On co-owner's death his/her interest ends and cannot be disposed of by will. Survivor owns the property by survivorship.	On co-owner's death 50% belongs to survivor in severalty, 50% goes by will to descendent's devises or by succession to survivor.	On partner's death, his/her partnership interest passes to the surviving partner pending liquidation of the partnership. Share of deceased partner then goes to his/her estate.
SUCCESSOR'S STATUS	Heirs of devises become tenants in common.	Last survivor owns property in severalty.	If passing by will, tenancy in common between devisee and survivor results.	Heirs of devisees have rights in partnership interest but not in specific property.
CREDITOR'S RIGHTS	Co-owner's interest may be sold on execution sale to satisfy his/her creditor. Creditor becomes a tenant in common.	Co-owner's interest may be sold on execution sale to satisfy creditor. Joint tenancy is broken, creditor becomes tenant in common.	Property of community is liable for contracts of either spouse which are made after marriage. Co-owner's interest can't be sold separately; whole property may be sold on execution to satisfy creditor.	Partner's interest cannot be seized or sold separately by his/her personal creditor but his/her share of profits may be obtained by a personal creditor. Whole property may be sold on execution sale to satisfy partnership creditor.
LEGAL PRESUMPTION	Favored in doubtful cases although not husband and wife cases.	Must be expressly stated. Not favored.	Strong presumption that property acquired by husband and wife is community.	Arises only by virtue of partnership status in property placed in partnership.

Table 1.2 Legal Options for Various Types of Housing Arrangements

TYPES OF HOUSING ARRANGEMENTS	LEGAL OPTIONS				
	CONDOMINIUM	COOPERATIVE	NONPROFIT CORPORATION	PARTNERSHIP	LEASE/RENTAL
COHOUSING	2	2	4	3	3
COLLABORATIVE AND OTHER CO-OPERATIVE-STYLE HOUSING	4	2	2	3	3
COMMUNITY LAND TRUSTS	3	2	1	5	3
COOPERATIVE HOUSING CORPORATION	5	1	2	5	3
ECO VILLAGES	3	2	2	3	3
HOMEOWNERS ASSOCIATION	1	1	1	2	3
INTENTIONAL COMMUNITY	4	2	2	3	3
LIMITED-EQUITY COOPERATIVE	5	1	1	3	3
LIVE/WORK	2	3	3	3	3
MOBILE HOMES	2	3	4	4	3
MUTUAL HOUSING ASSOCIATION	5	1	1	4	N/A
SPECIAL NEEDS HOUSING	4	4	2	4	2
STUDENT COOPERATIVES	5	1	1	5	2
SHARED HOUSING	5	4	4	2	2

Key: 1 = Always 2 = Most Often 3 = Sometimes 4 = Rarely 5 = Never N/A = Not Applicable

Table 1.3 Physical Options for Various Types of Housing Arrangements

TYPES OF HOUSING ARRANGEMENTS	PHYSICAL FORMS OPTIONS									
	APARTMENT BUILDING	CLUSTER	DUPLEX/ MULTI-PLEXES	MIXED USE: COMMER-CIAL/RETAIL/ RESIDENTIAL	PEDESTRIAN ORIENTED COMMUNITY	SCATTERED SITE	SHARED COMMUNITY BUILDING	SHARED KITCHEN	SINGLE-FAMILY DETACHED HOUSING	TOWN HOUSES
COHOUSING	4	2	3	4	1	5	1	1	3	2
COLLABORATIVE AND OTHER COOPERATIVE-STYLE HOUSING	2	2	3	3	3	3	N/A	N/A	3	3
COMMUNITY LAND TRUSTS	2	3	4	4	3	3	3	3	4	3
COOPERATIVE HOUSING CORPORATION	4	2	3	4	1	4	3	1	3	2
ECO-VILLAGES	3	3	3	1	1	5	1	1	4	3
HOMEOWNERS ASSOCIATION	2	2	1	3	N/A	2	3	N/A	2	2
INTENTIONAL COMMUNITY	4	3	4	3	1	4	1	1	3	4
LIMITED-EQUITY COOPERATIVE	2	4	4	4	4	4	3	4	4	4
LIVE/WORK	2	4	3	1	2	4	3	3	3	4
MOBILE HOMES	5	2	5	4	1	5	1	1	5	5
MUTUAL HOUSING ASSOCIATION	2	3	4	4	3	3	3	5	4	3
SHARED HOUSING	2	2	3	3	3	3	N/A	N/A	3	3
SPECIAL NEEDS HOUSING	2	4	3	4	N/A	5	4	3	2	4
STUDENT COOPERATIVES	2	4	4	4	2	4	2	2	3	4

Key: 1 = Always 2 = Most Often 3 = Sometimes 4 = Rarely 5 = Never N/A = Not Applicable

Table 1.4 Governance and Decision-Making Options in Relation to Various Types of Housing Arrangements

TYPES OF HOUSING ARRANGEMENTS	GOVERNANCE AND DECISION-MAKING OPTIONS						
	ALL RESIDENT BOARD	CONSENSUS	ELECTED BOARD OF DIRECTORS	PARLIAMENTARY MAJORITY	ROTATING BOARD OF DIRECTORS	SELF SELECTED BOARD OF DIRECTORS	SUPER-MAJORITY
COHOUSING							
COLLABORATIVE AND OTHER COOPERATIVE-STYLE HOUSING							
COMMUNITY LAND TRUSTS							
COOPERATIVE HOUSING CORPORATION *							
ECO-VILLAGES							
HOMEOWNERS ASSOCIATION *							
INTENTIONAL COMMUNITY							
LIMITED-EQUITY COOPERATIVE *							
LIVE/WORK							
MOBILE HOMES							
MUTUAL HOUSING ASSOCIATION							
SPECIAL NEEDS HOUSING							
STUDENT COOPERATIVES							

* California law requires that these entities establish a board of directors.

Note: Use this as an exercise with your own co-op group, using the following key:

Key: 1 = Always 2 = Most Often 3 = Sometimes 4 = Rarely 5 = Never

Table 1.5 Conflict Resolution Options in Relation to Various Types of Housing Arrangements

TYPES OF HOUSING ARRANGEMENTS	CONFLICT RESOLUTION OPTIONS				
	AGREEMENTS NOT TO LITIGATE	ARBITRATION	GRIEVANCE PROCEDURE	LITIGATION	MEDIATION
COHOUSING					
COLLABORATIVE HOUSING					
COMMUNITY LAND TRUSTS					
COOPERATIVE HOUSING CORPORATION					
ECO-VILLAGES					
HOMEOWNERS ASSOCIATION					
INTENTIONAL COMMUNITY					
LIMITED-EQUITY COOPERATIVE					
LIVE/WORK					
MOBILE HOMES					
MUTUAL HOUSING ASSOCIATION					
SHARED HOUSING					
SPECIAL NEEDS HOUSING					
STUDENT COOPERATIVES					

Note: Use this as an exercise with your own co-op group, using the following key:

Key: 1 = Always 2 = Most Often 3 = Sometimes 4 = Rarely 5 = Never

Chapter 2

Choosing a Legal Structure for Your Community

A lot of people have an inherent aversion to anything ending with "Inc." That is completely understandable. The problem is that bureaucrats in public agencies love corporations. They can barely fathom anything else. To get along with them, most cooperative housing groups should seriously consider incorporating.

The objective of incorporation is not to shape the community to fit the law, but rather to fashion a legal form to fit the community. Still, sometimes it is easier just to shape the community. The reasons for this are presented below.

FORMS OF SOCIAL ORGANIZATION

The distinction between intentional communities and other forms of social organization is difficult to define from an inclusive legal perspective. It's like trying to define a religion in the legal sense; it can't be done in a truly descriptive way. Still, until the different legal forms of organization are understood, it may seem impossible to come up with a definition of what your housing group is or is not. But if you don't do it, then the bureaucrat in the regulatory or taxing agency will.

FOUR LEGAL FORMS OF COOPERATIVE HOUSING

How is your money channelled? Is your community a collective, a cooperative, or a commune, or does it have a mixed economy? While not legal definitions, these classifications are a good starting point from which to develop an organizational form. The collective community is a form of intentional community in which private property is shared. Cooperative communities hold major property corporately, but co-op members have individual shares of these joint assets. In most co-ops and collectives, members may choose to dissolve the community, divide the assets, and leave nothing behind but memories.

Communal groups hold all of their assets in common. Upon joining, commune members renounce any right to regain their contributions to the community if they leave. This renunciation, or "vow of poverty," originated in monastic orders. It is a feature of some communal societies, although it may not be called a vow, and the members may not live in poverty. Even so, if there is a legally binding contract entered into upon joining, and that contract gives up any interest of the member in communal property, then the bureaucrat considers it a "vow of poverty."

Mixed-economy communities are essentially a blend of collective, cooperative, and communal economic arrangements integrated within one society. The most common form of mixed community is that in which the land and some buildings and equipment are held in common, while houses, cars, and bank accounts are held privately.

As noted above, these are not legal definitions and may relate only indirectly, or not at all, to the organizational categories legislated by the various states in their respective corporations' codes.

FOUR LEGAL CATEGORIES OF ORGANIZATION

Theoretically, any form of collaborative community may be organized under any of the four types of organizational entities normally recognized by state governments: partnerships, for-profit corporations, cooperative corporations, and nonprofit corporations. In fact, mixed economy communities frequently use more than one of these primary forms in an interactive fashion.

If you are already struggling to keep up with this discussion, take heart! Most states have corporate classifications that keep paperwork to a minimum. State tax exemptions are usually based on federal tax classifications, so local IRS offices make the initial decision to grant or deny tax-exempt status. But first, if you seek tax exemption, the community must register with the state as a nonprofit corporation. Tax exemptions for nonprofits will be explained after considering the for-profit alternatives.

General Partnership

A general partnership is the simplest form of legal association, and can be thought of as a small group of individual proprietors joining to operate a common business. Each partner takes a share of the profits and pays the taxes on that amount, whether it is actually distributed or retained by the business.

The biggest advantage of the partnership form is its simplicity. In many states no formal filing is required, although in California there is such a requirement. A partnership can be set up by an oral agreement or a handshake. Some states, like California, require the partnership to formally register with the Secretary of State. If a community is formed without any formal agreement, the IRS and the courts will usually rule that the community is operating as a partnership.

A second advantage is that while partnerships are not taxed, the individual partners are. This avoids the potential pitfall of double taxation into which many organizations fall.

The biggest disadvantage of the partnership comes when something in the community changes: a partner or partners leave, new ones enter, or the agreement dissolves. The property rights and compensation of the partners are established by the partnership agreement. Where the agreement is vague or does not anticipate every contingency, misunderstandings or disagreements can cause big problems.

A second problem with partnerships is that general partners are not personally insulated from legal liability for the debts of the business. For this reason, the business entrepreneurs (robber barons) of the 16th century created the limited liability company, or "corporation."

For-Profit Corporation

A corporation is an artificial "person." It is set up to be a legal entity apart from its owners. A corporation can make contracts, accumulate assets, do business, and sue and be sued in its own name. Its owners, or shareholders, vote on the management of the corporation but are not liable for the obligations of the corporation. Limited liability is the principal advantage of incorporation.

The principal disadvantage is double taxation. Corporations are normally taxed on their profits before they distribute them to their shareholders as dividends. Shareholders pay taxes a second time when they treat the dividends as income.

Every now and then legislators have taken pity on the poor taxpayer and created a special loophole to enable the little guy to escape unfair situations—like double taxation—while still obtaining the benefits of limited liability. In the world of for-profit corporations, there is such a loophole, the S-corporation, which was created to help small businesses. To qualify for Subchapter S, a corporation must have not more than 35 shareholders, none of whom is another corporation or trust (husband and wife are treated as one shareholder), must operate a business that does not receive more than 20 percent of its income from passive sources such as rents and investments, and must obtain the consent of its shareholders to apply for the classification. Subchapter S corporations pass all profits through to their shareholders, who then take up that income, whether distributed or not, on their tax forms. The corporation itself (with specific exceptions) is a pass-through entity like a partnership.

Cooperative Corporation

For those communities with good state laws governing cooperative corporations, the cooperative form of organization can be easy and comfortable. For a cooperative to qualify for legal status, the articles of incorporation must usually provide for open membership, democratic control (one member, one vote), political neutrality, and limited return on shares for limited-equity cooperatives.

There is a federal classification of for-profit-cooperative called Subchapter T, but it is only marginally profitable. Its primary purpose must be to serve some public benefit. If a member receives a share of the profits, it must be in the form of a patronage dividend distributed in proportion to the business or labor that each member has contributed—it's more like a salary bonus or purchasing rebate than profit-sharing. In California, sometimes low income housing cooperatives are formed as public benefit nonprofit corporations in order to attempt to acquire a welfare exemption from property tax. There is pending legislation on this topic.

Nonprofit Corporation

Partnerships, for-profits, and co-ops are supposed to make money, which can be distributed to their members, investors, and patrons. Nonprofits, on the other hand, are primarily organized to serve some public benefit, and their excess revenues must be earmarked for public benefit activities rather than returned to their supporters. Because of this public benefit, they can obtain IRS and state approval for special tax treatment.

FEDERAL TAX EXEMPTIONS

Some intentional communities, like many traditional municipalities, have elected to organize as nonprofit corporations and to apply for tax-exempt status. Since their activities are not directed primarily to making a profit, but to creating a wholesome environment for themselves and to advancing greater social causes, the average intentional community finds that there are significant advantages in becoming tax-exempt.

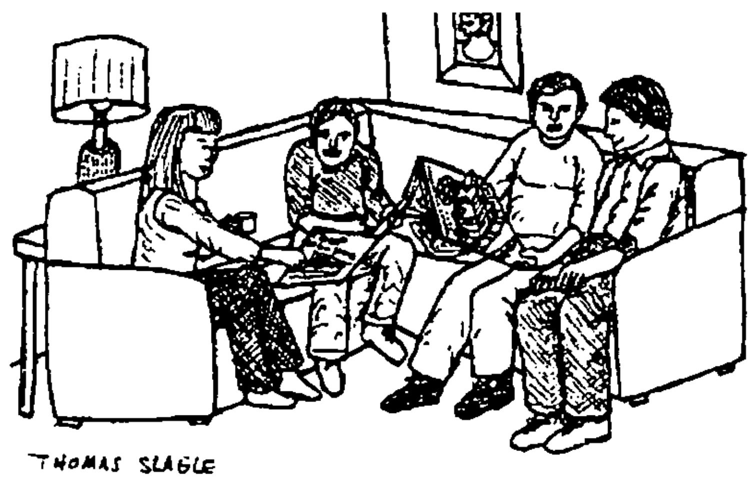
To qualify for tax-exempt status, the community must register with the state as a nonprofit corporation. It is best to decide which category of tax exemption you are seeking before you file your articles of incorporation, because the articles may have to conform to certain language.

The 501(c)(3)

Nonprofit corporations organized under Internal Revenue Code (I.R.C.) section 501(c)(3) may receive tax-deductible donations from corporations or individuals, and grants from government agencies or private foundations. They are eligible for lower bulk mailing rates, some government loans and benefits, and exemption from some forms of property tax. Religious orders that qualify under either 501(c)(3) or 501(d) may also be exempt from Social Security, unemployment, and withholding taxes on their members, although not on their employees.

In order to qualify for recognition under I.R.C. Section 501(c)(3), cooperative-style housing developments must be both organized and operated exclusively for one or more exempt purposes. The outcome of the organizational test is determined by the IRS on the basis of the applicant organization's articles of incorporation and bylaws. The outcome of the operational test is based on the IRS' evaluation of the activities of the organization in its first years of operation.

Many communal organizations have difficulty passing the operational test because of the requirement that no part of the net earnings may inure or be returned to the benefit of any individual. If the primary activity of the organization is to operate businesses for the mutual benefit of the members, it fails that test. Moreover, even if it passes the operational test by virtue of other, more charitable, public benefits—running an educational center, providing an ambulance service, or making toys for handicapped children, for instance—it can still be taxed on the profits it makes apart from its strictly charitable activities.



This catch—the unrelated business income tax ("UBIT")—prevents tax-exempt entities from unfairly competing with taxable entities. The destination of the income, as well as the source, aids in the determination of UBIT. If a community uses its profits from bake sales to build a community center, it may be considered "unrelated" and taxed.

There are other restrictions on Section 501(c)(3) corporations. If they are educational in purpose, they may not discriminate on the basis of race or other criteria and must state that in their organizing documents. A 501(c)(3) is not allowed to participate as an organization in a political campaign nor to make substantial contributions in an attempt to influence legislation, other than on issues related to the 501(c)(3) category. They cannot publish political "propaganda," either. Organizations that qualify under Section 501(c)(3) may not distribute their residual assets to their members when they dissolve. After payment of debts, all remaining assets must pass intact to a designated tax-exempt beneficiary.

The 501(d)

If a community has a spiritual focus and a common treasury, it may apply for recognition under I.R.C. Section 501(d). The 501(d) is like a partnership or Subchapter S corporation, in that its net profits, after expenses, are divided among all members pro rata, to be taken up on their individual tax forms. Unlike the 501(c)(3), the 501(d) corporation cannot confer tax deductions for donations.

IRC § 501(d) corporations have no distinction between related income and unrelated income. All income, from any source, is related. However, if a substantial percentage of community income is in wages or salaries from "outside" work, 501(d) classification may be denied. 501(d)'s have no restrictions on political activity or contributions to candidates or to influence legislation.

501(d)'s can engage in any kind of business they choose, passive or active, religious or secular. The profits are treated like those of a partnership or S-corporation. But 501(d)'s do not have the restrictions of those forms, such as the requirement to reform the partnership with each change of members, or the S-corporation's limit of 35 shareholders.

A 501(d) corporation also has a maintenance deduction for living expenses, in that the cost of doing the business of a 501(d) includes spending income to meet all the personal needs of the members. There are no restrictions on what these personal needs may be, and the Ninth Circuit Court of Appeals has ruled that a "vow of poverty" does not require actual impoverishment. The pro rata share of net earnings which is allocated to each member for tax purposes is derived from the profits to the corporation after expenditures for personal needs are deducted.

The substantial advantages of the 501(d)'s may be outweighed in communities that would prefer to hold property privately, or to keep spirituality out of the community organization. If the common ground between members is just that—the common ground—one of the two types of exemptions described below may be more suitable.

The 501(c)(2)

Title holding companies are useful devices for owning, controlling, and managing group property. A 501(c)(2) corporation is designed to collect income from property—whether it is a land trust, business, or passive investment—and turn over the entire amount to a tax-exempt parent corporation. To qualify under 501(c)(2), the exempt recipient, usually a 501(c)(3), must exercise some control over the feeder company, such as holding a majority of the voting stock or appointing directors. The two corporations file a consolidated return. Unlike 501(c)(3)'s, which may not receive more than 20 percent of their income from passive sources, a 501(c)(2) may not actively engage in "doing business," except for certain excluded (I.R.C. 512(b)(2)) categories such as renting real estate or negotiating investments (I.R.C. 512(b)(2)). Vehicle leasing, for instance, would be disallowed.

Many community land trusts find that having both 501(c)(3) and 501(c)(2) status provides a needed form to both run businesses and manage land and housing. The 501(c)(2) limits the community's exposure to conflicts with IRS over questions of income and inurement.

Sections 501(c)(4) and 528 Organizations

The Internal Revenue Code confers tax-exempt status on civic leagues, homeowner associations, and similar organizations under Section 501(c)(4), if they operate exclusively to serve the social welfare or some other exempt purpose. If common areas or facilities are owned or maintained by the group, they must be kept open for the use and enjoyment of the general public. As with 501(c)(3)'s, the benefits provided by 501(c)(4)'s cannot principally rebound or inure to the benefit of members of the group as private individuals. 501(c)(4)'s, like 501(c)(2)'s and 501(c)(3)'s, cannot engage in substantial political activity.

Homeowners associations that qualify under 501(c)(4) or have a narrower scope of public benefit might also decide to skip the paperwork of applying for tax exemption and simply incorporate under I.R.C. Section 528 and file an 1120-H return each year. Under I.R.C. Section 528, homeowner associations are exempt from taxation in acquiring, constructing, managing, and maintaining association property used for mutual benefit. "Association property" may even include property privately owned by members, provided that the private property exempted affects the overall appearance of the community, the owner agrees to keep up the appearance, and there is an annual pro rata assessment of all members to maintain the property. An example of association property would be tennis courts and swimming pools. They would be exempt property under Section 528, unless they were used by non-members. Another example would be meeting places or retreats. Those used exclusively by the association would be exempt. Those leased to nonmembers would no longer qualify as "association property."

INTENTIONALITY

In designing a new community, or transforming an existing one, it is imperative that mutually respectful relationships evolve among the participants. Often the process of designing the organizational documents is the first opportunity a community has to develop a convivial style of interpersonal relationships. Community members should be aware that creating formal bylaws is of a lower level of importance than the group's associated process of self-definition. This is the crux of intentionality in intentional community. While debate over structure is occasionally the last act of a group, it is often the debate that is most fondly remembered—or deeply regretted—in the years and generations to come.

CALIFORNIA CONSIDERATIONS

In California, as elsewhere, cooperators have a choice whether to incorporate as one of the following:

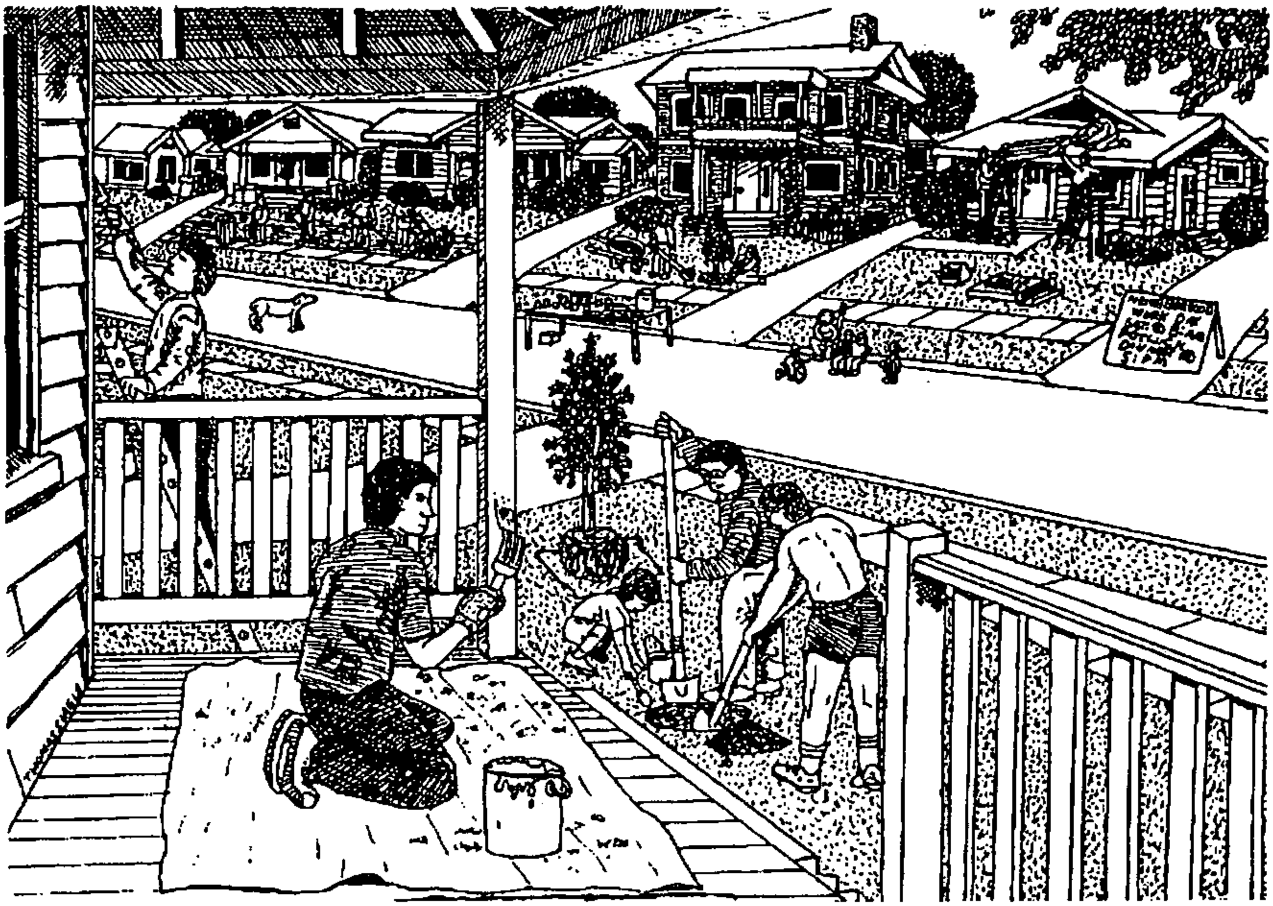
1. A nonprofit tax-exempt low-income housing corporation, which can be either privately or government funded, or a low income limited-equity housing cooperative (IRC § 501(c)(4)).

2. A cooperative housing corporation which qualifies for patronage rebates and flow through of certain deductions (IRC §216). One major advantage of qualifying as an IRC §216 cooperative is that the shareholders are entitled to the same tax deductions for property tax and mortgage interest as are available to conventional homeowners.

3. A homeowners' association incorporated as a California nonprofit mutual benefit corporation, which may choose to reduce taxable income by making a tax rate election if the cooperative receives significant gross income other than member assessment revenues and interest on reserve funds (IRC § 528 and Cal. Rev. and Tax Code §23701, Cal. Corporations Code §§ 716-8910). This IRC § 528 election is advantageous for a cooperative that receives income from investments or business activities unrelated to the cooperative's tax exempt function. Tax considerations must surely enter into making the choice. A fine discussion of the Federal and California tax treatment of cooperatives and other types of community housing associations can be found in *Advising Condominium and Homeowners Associations*, Proul & Rosenberry (CEB 1991) (see Section 3.20, "Taxation As A Housing Cooperative," and also sections 1.a and 3.21 - 3.28).

These considerations should be reviewed with professional consultation. Two sources for knowledgeable cooperative housing consultants are the National Society of Accountants For Cooperatives and the National Association of Housing Cooperatives' Directory of Professions, both listed in the Resource Directory.

While up to now most cooperatives have been newly constructed, there is a growing trend to convert existing housing stock into cooperatives. This is a wonderful self-empowering phenomenon. One example is the Route Two Cooperatives in Los Angeles, vividly described in Allan Heskin's recent book, *The Struggle For Community* (Westview Press, 1991). For those considering conversion, there are several excellent how-to manuals, including *Converting Mobile Home Parks Into Cooperatives* (National Cooperative Bank, 1983), *Cooperative Housing: A Development Primer* (National Cooperative Business Association, 1988), *California's Lower-Income*



Housing Cooperatives (Center for Cooperatives, U.C. Davis, 1992), and *Converting Multi-Unit Housing Into Affordable Cooperatives* (The Alternatives Center, 1983). For those who want to protect and preserve their HUD-subsidized housing, the Legal Aid Foundation of Los Angeles has prepared *A Manual For Tenants, Tenant Associations And Housing Advocates* (1991). See the Resource Directory for ordering details on these publications.

This chapter is an edited version of an article written by Albert Bates and Allen Butcher for the Directory of Intentional Communities: A Guide to Cooperative Living, *Fellowship for Intentional Community, and Communities Publications Cooperative, Rutledge, Missouri, 1991. It has been adapted to include legal options for California.*

Albert Bates is an attorney, long-time member of The Farm, general counsel to Plenty-U.S.A., Director of the Natural Rights Center, an environmental law project, and author of Climate in Crisis: The Greenhouse Effect and What We Can Do.

Allen Butcher is a long-time communitarian involved in research and writing about the diverse legal and economic systems within communities.

PART II

Housing Options

Chapter 3

The Need for a New American Dream

The subject of growth management is widely discussed and much debated. In large cities and small towns alike, topics such as congested roadways, overflowing landfills, air and water pollution, overburdened infrastructure, and overly strained resources provide fodder for regular newspaper stories and often heated public discussion.

While lamenting the side effects of growth has become a popular pastime, few trace the roots of the problem to land use patterns and unsustainable lifestyles. Rather, the culprit is often thought to be growth itself. We frequently blame an eroding quality of life on all the new homes being built, all the new cars on the road—in short, all the new people moving in. Framed in this way, the solution is simple—to halt the degradation, stop the growth.

Such a solution is advocated by many homeowners' associations, earning them the now common epithet "NIMBY" (not in my back yard) for their efforts to wrestle the growth monster into submission. Of course, building walls around communities is neither realistic nor equitable, and often such groups tend to be adversarial and exclusionary. Further, by focusing on protecting their own neighborhoods, they fail to perceive that the lifestyle they are preserving may be at the root of the problem.

This shortsightedness underlies the complexity of the issue. In order to correct the problems associated with runaway growth, attitudes toward one of the most basic cultural values must be changed. The American dream of homeownership and all that it embodies—privacy, self-sufficiency, financial success, and the attainment of "the good life"—cannot be maintained in its present form. To do so would continue the cycle of ever-increasing sprawl and environmental degradation to the point where the qualities of "the good life" are no longer worth preserving.

Although the goals of some neighborhood associations may be narrow and self-serving, the proliferation of community-based groups is not a negative trend. In fact, the unity derived from common opposition may prove valuable in shaping solutions to the problems associated with unmanaged growth. Before any solutions can be developed, however, there must be a fundamental change in values and a new meaning of "quality of life." The autonomy and isolation of the detached single-family housing developments must give way to a more cooperative, community-based model. As Sim Van der Ryn and Peter Calthorpe write in *Sustainable Communities*:

> Our current patterns of settlement, focusing on private space, are quite resource-inefficient: land

use, transit demands, energy and material needs are greater for low-density single-family developments than for higher-density mixed-use equivalents. The clustering imperative born of these constraints inherently raises the issues of common space and shared facilities. It is the shared ground, responsibilities, and systems at the community scale which offer the potential for a more benign form of human settlement, both socially and environmentally.

This chapter will look at some of the problems inherent in single-family living, beginning with a review of the historical trends that produced the existing model. This discussion will serve as a backdrop for the alternatives presented in the following chapters.

HOUSING AND VALUES

History

Architecture and community design do not cause, nor can they cure, the problems of environmental degradation, poverty and inequity, or loneliness and isolation; they can, however, aggravate or alleviate them. Like all art forms, architecture reflects the values and idiosyncrasies of its builders and of its age. The glut of glitzy, oversized office towers built in the last decade attests to the conspicuous consumption and "bigger is better" mentality of the 1980's just as the simple elegance of a Greene and Greene designed California craftsman home reflects the virtues of quality and durability espoused during the Arts and Crafts era.

What, then, are the values represented by an endless sea of identical single-family homes, each with a postage-stamp yard, two-car garage, three bedrooms, two and one-half baths, modern appliances, plush wall-to-wall carpeting, and enormous walk-in closets, all stretched end to end along wide, paved, often treeless streets? Perhaps more than anything else, these homes, located in "nice" neighborhoods far from urban problems, have come to symbolize the American concept of "the good life." They also represent a prodigious squandering of natural resources, an inefficient use of human energy, and a lifestyle largely inaccessible to, and inappropriate for, many households today.

In *Redesigning the American Dream*, Dolores Hayden traces the beginning of suburban single-family tract housing to the end of World War II. The convergence of various forces worked together to shape this model: a housing shortage, returning veterans' desire for privacy after communal barracks living, federal highway funds which opened up previously remote areas for development, and the favorable home financing terms offered to veterans. These forces combined to create such mass-produced developments as New York's Levittown, a vast sprawl of identical single-family homes designed to meet the needs of the typical American family of the time—working father, homemaker mother, and their children.

The technological advances that made Levittown developments possible also produced a wide range of products, gadgets, and appliances with which to fill them. The status of homeownership became m/re than a financial achievement—it implied a lifestyle of convenience and luxury attained through material wealth and perpetual consumption.

Since the time of these earliest developments, the seeds of modern suburbia have been carefully cultivated. With more than 40 years of attentive nurturing through transportation and energy policies, the federal tax code, state and local land use plans, and the persuasive skills of advertising and marketing departments, this seemingly innocuous life form has blossomed into the same voracious beast that neighborhood groups are now struggling to control.

The post-war housing model was considered appropriate for the American family of its time. It provided the father with privacy and serenity after the stressful workday; it offered the mother the most modern and efficient tools with which to practice the art of homemaking; and it provided children a "good" neighborhood in which to play with children from other "good" families. What it did not offer was mass transportation, social services (such as childcare), racial, ethnic or income diversity, a true sense of community, or easy access to non-traditional households. Despite these shortcomings, and the evolution of the "typical" household, this type of development continues to serve as a model to homebuilders and homebuyers today.

The Typical Household

The "traditional" family, with the working father, at-home mother, and their children, has become increasingly scarce in the United States. As recently as 20 years ago, married couples with children under 18 comprised 40% of all households; in 1990, they accounted for just 26% (see Figure 3.1, which was designed with information from the U.S. Department of Commerce; Bureau of the Census; Current Population Reports, 1990). By comparison, the proportion of people living alone has grown from 17% to 25%. Single-person residences now represent nearly as many households as married couples with children.

The number of single-mother households has also grown rapidly. In 1970, single mothers accounted for less than 12% of all families with children, about one in nine. By 1990, this share had climbed to nearly one in four. These households are very unlikely to find home ownership affordable, inasmuch as one in three families headed by women lives in poverty, compared to one in ten for all families (U.S. Census, 1990).

Growing numbers of single-person households and a declining average household size suggest a need for smaller housing units; instead, new homes have substantially increased in size. In 1970, more than one-third of all single-family homes constructed were less than 1,200 square feet, and only about one-fifth were more than 2,000 square feet. By comparison, nearly one-half of the new single-family homes built in 1990 were more than 2,000 square feet and just one-tenth were less than 1,200 square feet. As a result, the average size of new homes has increased from 500 to 800 square feet per person.

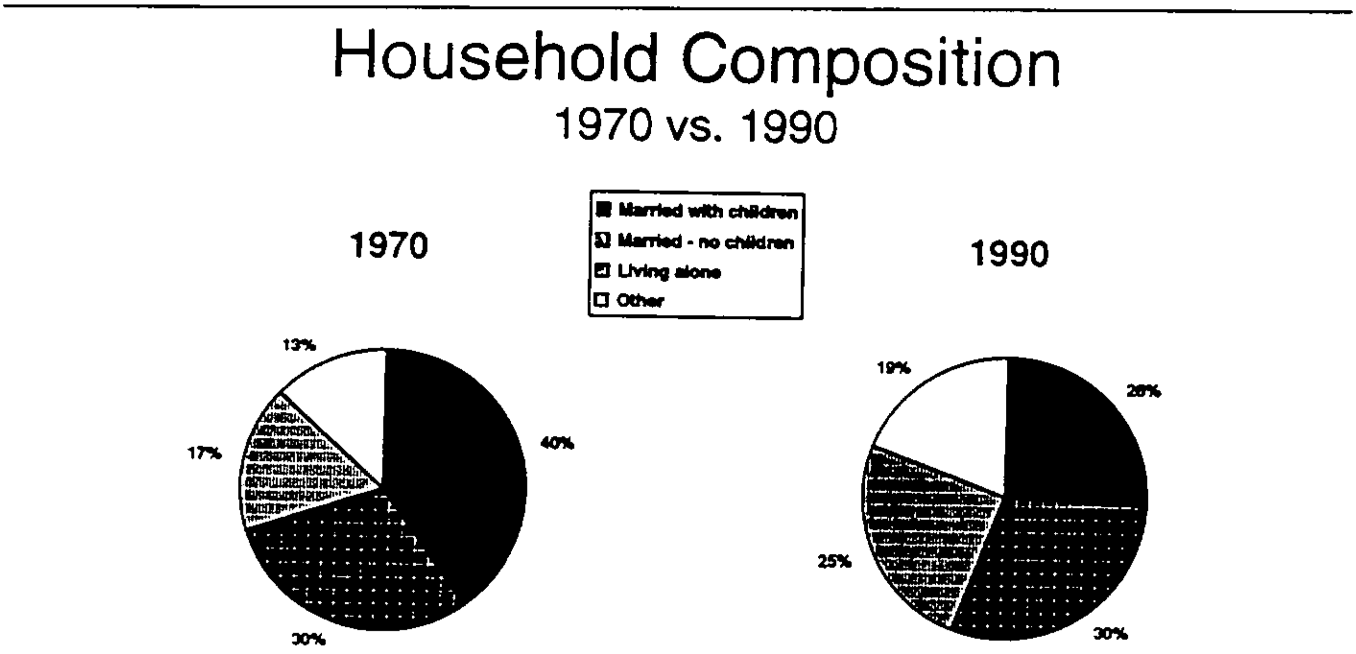


Figure 3.1 Household Composition 1970 vs. 1990

During this same period, housing affordability has diminished as home prices have rapidly outpaced income growth. The median price of new single-family homes grew from $23,400 to $123,000 between 1970 and 1989, a 425% increase. Meanwhile, median income levels rose from $8,734 to $28,906 over this period, a significantly smaller increase of 230%.

These trends indicate that new housing development has been unresponsive to demographic shifts and economic realities, essentially excluding large segments of the population from participating in home ownership. In order to design a more appropriate model, it is necessary to understand the needs of future residents, no small feat given the absence of any "typical" household. Despite this difficulty, the problems with the existing prototype provide a useful basis of comparison against which to measure alternative models.

SHORTCOMINGS OF THE SINGLE-FAMILY HOUSING MODEL

The shortcomings of the suburban single-family model are grouped into three categories: environmental, social, and economic, as follows:

Environmental

Environmental problems of the single-family home begin with the community within which it functions. The wastefulness and inefficiencies of suburban sprawl have been much discussed and are well documented: the large amounts of land required to build detached houses with separate yards; the increased infrastructure such as roads, sewer systems, and power lines, needed to reach these increasingly dispersed units; the high levels of gasoline consumed and pollution emitted because of fossil-fueled dependence on cars; and the increased cost and limited feasibility of providing mass transit to low-density neighborhoods.

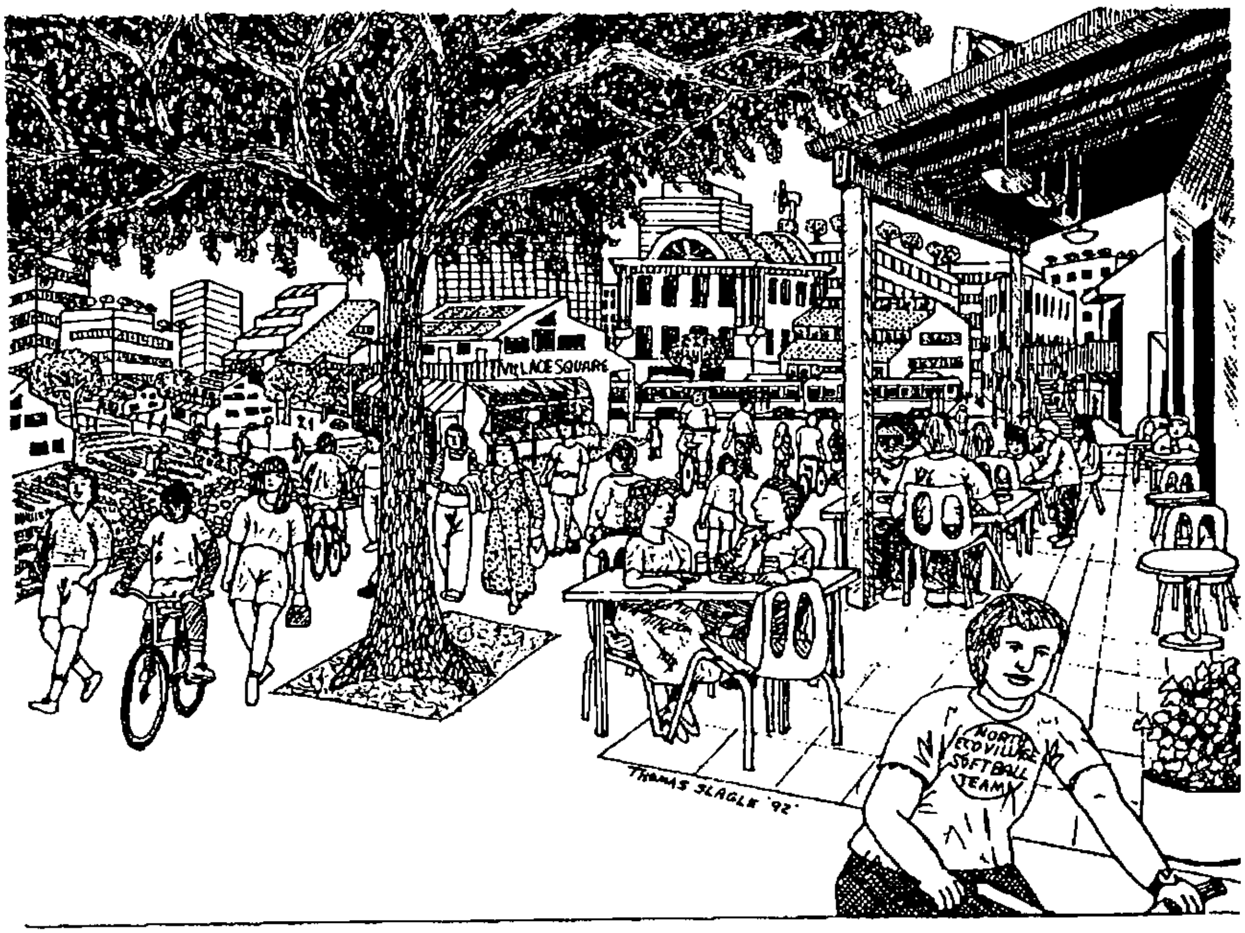
The housing unit itself adds to the inefficiency. First, detached single-family houses require more energy than attached units. In *Resettling America* (1981), Marshall Hunt and David Bainbridge review a study of the energy demands of housing conducted for the city of Davis, California. The study showed the average apartment used 25% less electricity and 39% less gas per square foot than the average detached house, largely because of their common walls and reduced outside surface areas. In the same book, Peter Calthorpe and Susan Bender write that the energy demanded for multi-family dwellings can be one-half that of single-family units.

Secondly, the single-family home (like nearly all housing units in the United States) operates as a linear, rather than cyclical, system. Water and wastes are emptied into drains and trash cans rather than collected, reused, and recycled. Not only are valuable resources lost, but such a system reinforces the image of the convenience-craving, disposable society.

Further, the technological autonomy of the single-family unit feeds a culture of wasteful consumerism. Regardless of the number of residents or frequency of use, each house along a suburban block is likely to have at least one car (and often two or three), a lawn mower, a set of tools, a clothes washer and dryer, a vacuum cleaner, stereo system, several television sets, VCR, computer, and so on. In more affluent neighborhoods, the houses would be bigger and the list far longer. The demand for these goods sustains some less-than-benign industries, while supporting the construction of more and more retail outlets along the bloodlines of suburbia.

Social

The single-family model is based on a refuge-from-the-world concept implicit in the expression "a man's home is his castle." As such, the single-family model values privacy above



community or cooperation. As housing author Dolores Hayden writes in *Redesigning the American Dream* (1984)

> The Dream House is a uniquely American form, because for the first time in history, a civilization has created a utopian ideal based on the house rather than the city or nation. . .It has encouraged Americans to turn their backs on their cities, and to pretend they don't exist. (*Redesigning the American Dream*, p. 18).

Suburban flight amplifies the separation between races and income classes, often contributing to a sense of distrust and animosity among them. The departure of the more affluent touches off a downward spiral, as the eroding tax base diminishes the capacity of inner cities to provide education and public services and rebuild decaying infrastructure.

The promise of the suburban "good life," however, falls far short of meeting social needs. Designed for privacy, housing developments offer few opportunities for casual interaction, often breeding a sense of isolation. In many neighborhoods, long-time residents do little more than wave to each other as they pull their cars into driveways and disappear behind the automatic garage door. Long commutes on congested roads take their toll on family lives; parents arrive home tired and tense, with little time or energy to give to spouses and children. Typical subdivisions do not offer services for children or the elderly, so working parents must cope with the additional financial burden and inconvenience of hiring live-in help or, more often, making extra trips to day-care facilities. They do not provide door-to-door transit services, so those who do not drive, particularly the elderly, cannot easily run errands or socialize.

One of the most serious social problems concerns the long-term implications of generations of children growing up with little exposure to, or understanding of, natural systems and the environment. Few suburban housing developments incorporate natural streams or wild fields into their designs. Without them, children have few places to explore nature, observe insects and animals, and develop an appreciation for the earth and its systems. There is evidence that this absence affects children's health and physical fitness, as well. In the policy paper, *The Bottom Line: Restructuring for Sustainability* (Gildea Resource Center, 1990), the authors cite a study indicating the number of children passing the distance run was declining, owing to less of an emphasis on physical training in schools and more sedentary lifestyles. As Wynn F. Updyke, Director of Chrysler Amateur Athletic Union Physical Fitness Program, analyzes it: " . . kids are saving their competitive instincts for Nintendo and other computer games instead of kick-the-can and other physical activity."

Economic

The appetite for low-density housing has consumed vast amounts of land. As land becomes scarce, its price increases, thereby driving up the price of housing. Because housing is typically most expensive in the suburban areas closest to employment centers, those seeking affordable housing are forced further and further outward, perpetuating the sprawl.

High housing prices have pushed home ownership out of reach of nearly all but two-income households; in many cases, both adults must work to meet mortgage payments, allowing little flexibility for major life adjustments such as childbirth or career changes. As discussed above, for many non-traditional households—particularly single mothers—home ownership is simply out of the question. So, too, are the financial benefits of equity growth and tax advantages. Instead, low-income households must contend with the uncertainty of rent increases and the varying quality of landlord management.

Operating the single-family home and supplying it with the "standard" equipment requires substantial financial resources as well. "Keeping up with the Joneses or Schwartzes" is a prevalent cultural activity that pumps up demand for the fastest car, the newest stereo equipment, and the largest television screen. While no one is forced to make such purchases, high consumer debt loads indicate that the pressure to buy is often difficult to resist.

Because the single-family home is so closely linked to issues of image, lifestyle, and values, changing this model is not easily accomplished. For alternatives to be accepted, there must be a shift in values. There must be an understanding that "the good life" means something essentially different than material wealth. The sense of community gained through sharing and cooperation must come to be understood as preferable to the privacy, autonomy, and wastefulness of the single-family detached house in the suburbs.

The following chapters introduce different types of cooperative-style housing models currently being used or planned. What seems to be clear is that wherever people commit to cooperative living, whether their motivation is social, economic, or environmental (or all three), they will continue to devise new and innovative techniques and methods to achieve their goals.

This is an edited version of an article written by Linda Ashman. Linda is a member of the Los Angeles Eco-Cities Council, a graduate student at the UCLA Graduate School of Architecture and Urban Planning, and has many years experience in real estate development.

Chapter **4**

Distinguishing Cooperative Housing Corporations From Condominiums

The cooperative housing corporation is a special entity designed for larger scale cooperatives, generally more than 25 units. The corporation sells shares of stock to its new members, which entitles each member to lease a unit. These leases are called proprietary leases. They last as long as the membership, providing the member abides by the terms of the lease as well as the terms of the bylaws and "house rules" of the corporation. Each member is entitled to one vote and is expected to participate in the democratic control of the cooperative.

The members are therefore shareholders of a cooperative housing corporation, which owns or leases the building(s) in which the members reside. There is one voting share per unit. The shareholders elect a board of directors, form committees, and either self-manage their property, choose a management company to manage and maintain the physical premises, or have a combination of self-management and professional management.

Housing cooperatives provide many economic benefits for their members. The purchase price of a share is usually less than the purchase price for a comparable condominium unit, and the percentage of down payment to purchase the share is generally less as well. Homeowner tax deductions flow to the shareholders (Internal Revenue Code § 216). In addition, the monthly assessments may be lower, since many members take extra pride in their co-op and provide needed labor and skills. Sometimes organizations such as the Local Initiative Support Corporation (LISC) and The National Cooperative Bank Development Corporation may provide share financing at below-market rates of interest to co-ops serving low and moderate income people and/or special needs groups.

In their book, *Going Co-op*, William Coughlan, Jr. and Monte Franke presented a chapter entitled "The Co-op Choice," which in part compares and contrasts cooperative housing corporations to condominiums. Although co-ops got a head start in the East, where higher densities and mixed land uses have been more prevalent, more and more Californians will be making a choice between going co-op or condo. With this in mind, the following passage is presented from *Going Co-op*:

> You can't talk about co-ops today without comparing them to condominiums, and vice versa. They are the two most common forms of multi-family home ownership. Cooperatives have existed in the large urban areas of the United States for most of this century; condominiums are a more recent phenomenon, growing in popularity in resort areas during the 1960's.

Co-ops and condos have become popular because of their lower cost and convenience. They are less expensive than single-family homes because they are smaller. Many co-op and condo buyers can afford only smaller units and seem to prefer their convenience and reduced maintenance requirements. Demand for both condos and co-ops has grown, causing many rental buildings to be converted. In response to the number of the conversions and displacements, state and local governments have enacted laws limiting conversions and tenant evictions.

Both the co-op and the condo offer a legal means of common ownership. In a condominium, members legally own the air space of their unit as well as a share of any common spaces and land. A co-op member, in contrast, owns part of a corporation which owns the building. The corporation in turn provides the member with lease rights to occupy a unit so long as the member household belongs to the co-op. Too much can be made of the legal differences between these forms of ownership. The type of ownership most common in your community probably depends for the most part on the history of multi-family ownership in your area and the preference of lenders.

We feel that the case for condominium ownership has been overstated. Convinced that Americans need to own something tangible, developers extol "private ownership of air space" to promote the condo as the substitute for single-family detached ownership. Many lenders also have developed a preference for condos because the risk of the project is spread among many mortgages and several lenders. But the consumer—the critical participant as far as we are concerned—is not given any real advantage by the separate mortgage and the concept of owning air space.

In fact, there are some significant disadvantages to the condominium owner. Condo buyers have to qualify for an individual mortgage, which can be an obstacle to the first-time borrower. Separate ownership of air space somehow creates the illusion for condo owners that their neighbors cannot affect them and that they can close the door and shut the others out. Nothing is further from the truth. Condo owners need each other very much. They share walls, they share floors and ceilings, they share entrances and hallways, and, like it or not, they share lifestyles and rules for living. The argument about owning one's own air space is a dangerous marketing illusion that creates a mistaken,

possessive attitude instead of fostering the cooperative attitude essential to peaceful shared living.

Co-ops, on the other hand, have one mortgage for the entire building. Individual members do not have to qualify for an individual mortgage (although they do have to qualify with the board of directors for credit ratings, income, etc). And, most important, co-ops do not create any illusions about members' ability to ignore their neighbors. Rather, the co-op devotes considerable attention to creating and fostering a social democracy, the ideal basis for living in a shared environment.

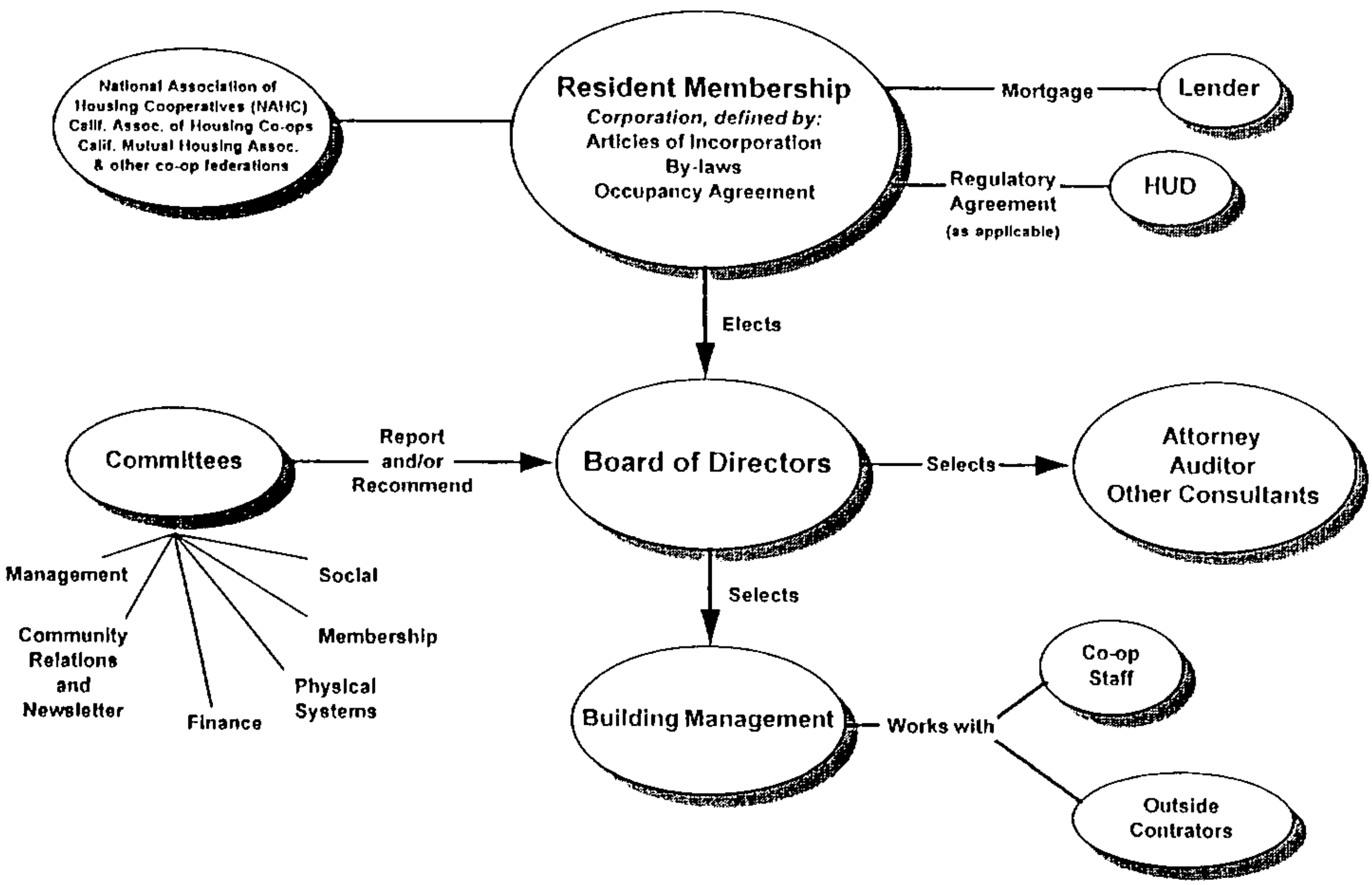
The difference in the way a condominium and a cooperative make decisions is critically important to understanding the two concepts. In condos, voting rights reflect investment. If you own a larger and more expensive unit than someone else, your voting power is proportionately larger. Co-ops are democratic in decision making. Each member household has one vote, regardless of size or investment. No single household is granted extra influence.

Co-ops have to limit absentee ownership to comply with IRS requirements. In doing so, they usually foster a better living environment. Condos have no such legal restrictions. As a former or current renter, you know that a structure allowing absentee owners can create many problems for tenants.

The co-op member's right of occupancy is protected by a proprietary lease. A member must violate some material term of the occupancy agreement to lose the right of occupancy, and a member can lose that right only after the situation has been reviewed by the co-op's democratic decision-making body. Since each member votes in the election of the body and helps set the rules, members' rights are doubly protected.

There are at least three variations of cooperative housing corporations—namely, market rate stock cooperatives, limited-equity cooperatives, and government-financed housing cooperatives. Market rate cooperatives are prevalent in New York, Chicago, and Washington, D.C., with a few in

Figure 4.1 Organization and Structure of a Housing Cooperative Corporation



California. Units are often purchased by speculators who believe the units will increase in value and thus yield a significant return on their investment.

In contrast, limited-equity cooperatives legally limit both the resale price of the share and the percentage of profit to be given to the seller. These co-ops are discussed in detail in Chapter 5.

Government sponsored and financed co-ops, which also may be limited-equity co-ops, mutual housing associations, community land trusts, or nonprofit resident controlled housing, are large, often over 100 units, and generally require the membership to be low and moderate income households. Resale controls in the bylaws maintain the affordability of units to future users with similar incomes.

Cooperative housing corporations offer a viable framework to either build new housing or to convert multi-unit dwellings such as condos, community apartments, or rental units, as well as single-family detached housing. Financing, including "seed" pre-development or feasibility grants, is available from a number of sources, most predominantly the National Cooperative Bank. Public and private financing of cooperatives is discussed in Part IV.

There is room for creativity in developing cooperative housing. One major avenue that groups seeking affordable cooperative housing might take is to associate themselves with a nonprofit housing developer familiar with the co-op development (or conversion) process. The key here is that people need to organize themselves into income-qualifying groups that can take advantage of public and private financial opportunities.

Groups of co-op minded people who would like affordable co-op ownership should identify rental buildings with good potential for conversion and begin to move in as natural attrition occurs. Although this is no guarantee that a building can be brought into co-op ownership, it can help a group focus its energy in the co-op direction. Chapter 16 outlines how the California Mutual Housing Association can provide resource materials and people to assist in this process.

This chapter was written by Lottie Cohen and includes an excerpt from Going Co-op *written by William Coughlan, Jr. and Monte Franke.*

Chapter **5**

Limited-Equity Housing Cooperatives

INTRODUCTION

This chapter consists of three sections, which will give the reader a fairly comprehensive overview of the various aspects of LEHCs:

Part I. General Overview of LEHCs

Part II. California Statutory Provisions Describing Limited-Equity Housing Cooperatives

Part III. Equity Controls in Co-op Conversions

PART I: GENERAL OVERVIEW OF LEHCs

Purpose of Limited-Equity Housing Cooperatives (LEHCs)

The purpose of a limited-equity housing cooperative (LEHC) is to provide long-term or permanently affordable housing. This means that the housing that is developed today through LEHCs is affordable to future generations whose incomes are comparable to the initial users of the housing. Some LEHCs in California serve exclusively low income households, some serve low to moderate income populations, and others provide housing to a variety of income groups from very low to quite affluent. Some LEHCs restrict membership to persons of certain income groups. A list of LEHCs in California can be obtained from the Center for Cooperatives at U.C. Davis.

Definition

In limited-equity cooperatives, a nonprofit housing corporation owns the property. Each member-resident owns a share of stock in the corporation, which entitles them to occupy a unit of the housing. Members pay a monthly assessment that represents their proportionate share of all of the expenses of the corporation, including principal, interest, maintenance, management, taxes, insurance, education, reserve fund, and any other expenses the board has agreed to include. Member-residents elect a board of directors, which, as in other cooperative corporations, is legally responsible for the successful functioning of the corporation (see Chapter 4, Figure 4.1, Organization and Structure of a Housing Cooperative Corporation). The housing units may be in an apartment building (which is most common), similar or diverse structures scattered over a limited geographical area (known as a "scattered site cooperative"), or a mobile home park. Physical design can vary from apartment buildings to multi-plexes to single-family detached housing or any combination. Cohousing, of course, is also an option and one that is gaining in popularity.

Features Distinguishing LEHCs from Other Co-ops

The main feature distinguishing a LEHC from a market rate or stock cooperative housing corporation is that the resale value of the share is limited by the co-op's legal documents: the Articles of Incorporation, the Bylaws, and the Occupancy Agreement. In California, when a housing co-op incorporates as a LEHC, the resale value of individual shares is also limited by state law, currently no more than 10% per year uncompounded. Generally, LEHCs tie the allowable increase in the resale value of their shares to a standard index, such as the consumer price index for their area, so long as it does not go above the limits indicated in the state law.

The California state law even goes a little further, by limiting the initial cost of shares to no more than 5% of the unit cost. Given this limitation, shares can be purchased by many low to moderate income households. Many public subsidies available to rental housing, from the local to the federal level, are also available to LEHCs to encourage homeownership among low to moderate income households.

An additional component of the resale control is that departing members can include in the selling price of their share the cost of any capital improvements they made to their units as approved by the board of directors.

Table 5.1 shows a simplified version of the LEHC resale controls as described above.

Developing LEHCs

Certain advantages to LEHC developers can include reduced parking requirements, fast tracking of the permit process and/or reduced fees for serving low and moderate income households, low-interest loans, and in many cases pre-development grants from public and charitable institutions. LEHCs are exempt from the Subdivision Map Act process at the state level (a complex, expensive, and time-consuming regulatory process that new condo and stock co-ops must adhere to).

The National Cooperative Bank Development Corporation, the nonprofit arm of the NCB, sometimes works with nonprofit developers to provide start-up money to LEHCs. Local public agencies such as community redevelopment agen-

Table 5.1 Simplified Example of Resale Control in a Limited-Equity Housing Cooperative

Year	Description	Amount
1	Initial purchase price of LEHC share	$1,000
2	Capital improvement of bookcase built into living room wall (with prior approval of Board of Directors)	500
3	Annual interest on initial share purchase at 3.5% uncompounded, as stated in cooperatives' documents: 3 (years) × .035 × $1000 =	105
3	Price paid to departing member	1,605
3	Price paid by incoming member for same unit, maintaining on-going affordability	$1,605

Note: In LEHCs departing members receive only the amount of their initial share adjusted for inflation plus the cost of any Board-approved capital improvements.

cies and community development or housing development departments can work with nonprofit groups in a variety of ways, from helping with land acquisition to providing land and technical assistance and providing other opportunities for public-private partnerships, in producing more affordable housing.

Grass roots groups that want to create LEHCs or convert existing privately owned speculative rental housing to LEHCs can associate with an established nonprofit developer for such purposes or join a "mentor" organization such as the Southern California Association of Nonprofit Housing, the Nonprofit Housing Association of Northern California, or the California Mutual Housing Association.

The newly established California Mutual Housing Association (CMHA, see Chapter 16) is providing a variety of technical assistance services and acting as a state advocacy organization for limited-equity co-ops and other forms of resident-controlled housing. CMHA is also a channel for public and private moneys to new groups and established tenant groups for conversion to LEHC and other cooperative-style housing serving low and moderate income people.

Voluntary LEHCs

Of course, members of other types of cooperative-style housing may voluntarily restrict the resale "profits" of their shares, ownership interests, or real property so as to provide affordable housing for the next generation of cooperators. Such voluntary restrictions can accomplish the same purposes as state-regulated LEHCs, namely to preserve housing affordability over the long term. There are good examples of voluntary LEHCs, including a six-unit court-style cooperative in Venice (for sample documents, write Venice Community Housing Corporation, 12240 Venice Boulevard, Suite 25, Los Angeles, California 90066).

The Magic Ingredient for LEHCs and Other Cooperative-Style Housing

The major quality required for a successful LEHC, as in other cooperative-style housing, whether regulated or voluntary, is a cooperative spirit among members and a genuine culture of cooperation and good neighborliness. Often people seek out cooperatives of various kinds and especially LEHCs for the affordable housing advantage. However, they often end up staying in such communities because of the social cooperation and good neighborliness they experience, according to housing co-op activist Joyce Ellenbecker.

PART II: STATUTORY PROVISIONS DESCRIBING LIMITED-EQUITY HOUSING COOPERATIVES

This section is a statement of the California state law on LEHCs. Additional resources can be found in the Resource Directory and the Bibliography.

Health and Safety Code (Current as of 1992)
§33007.5 Limited-Equity Housing Cooperative

"Limited-equity housing cooperative" means a corporation organized on a cooperative basis which meets all of the following requirements:

(a) The corporation is any of the following:

(1) Organized as a nonprofit public benefit corporation pursuant to Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code.

(2) Holds title to real property as the beneficiary of a trust providing for distribution for public charitable purposes upon termination of the trust.

(3) Holds title to real property subject to conditions which will result in reversion to a public

charitable entity upon dissolution of the corporation.

(4) Holds a leasehold interest of at least 20 years' duration, conditioned on the corporation's continued qualification under this section, and providing for reversion to a public entity or charitable corporation.

(b) The articles of incorporation or bylaws require the purchase and sale of the stock or membership interest of resident owners who cease to be permanent residents, at no more than transfer value determined as provided in the articles or bylaws, which shall not exceed the aggregate of the following:

(1) The consideration paid for the membership or shares by the first occupant of the unit involved as shown on the books of the corporation.

(2) The value, as determined by the board of directors of the corporation, of any improvements installed at the expense of the member with the prior approval of the board of directors.

(3) Accumulated interest, or an inflation allowance at a rate which may be based on a cost-of-living index, an income index, or market-interest index. Any increment pursuant to this paragraph shall not exceed a 10% annual increase on the consideration paid for the membership or share by the first occupant of the unit involved.

(c) The articles of incorporation or bylaws require the board of directors to sell the stock or membership interest purchased as provided in subdivision (b), to new member-occupants or resident shareholders, at a price that does not exceed the "transfer value" paid for the unit.

(d) The "corporate equity," which is defined as the excess of the current fair market value of the corporation's real property over the sum of the current transfer values of all shares or membership interests, reduced by the principal balance of outstanding encumbrances upon the corporate property as a whole, shall be applied as follows:

(1) So long as any such encumbrance remains outstanding, the corporate equity shall not be used for distribution to members, but only for the following purposes, and only to the extent authorized by the board, subject to the provisions and limitations of the articles of incorporation and bylaws:

(A) For the benefit of the corporation or the improvement of the real property.

(B) For expansion of the corporation by acquisition of additional real property.

(C) For public benefit or charitable purposes.

(2) Upon sale of the property, dissolution of the corporation, or occurrence of a condition requiring termination of the trust or reversion of title to the real property, the corporate equity is required by the articles, bylaws, or trust or title conditions to be paid out, or title to the property transferred, subject to outstanding encumbrances and liens, for the transfer value of membership interest or shares, for use for a public or charitable purpose.

(e) Amendment of the bylaws and articles of incorporation requires the affirmative vote of at least two-thirds of the resident-owner members of shareholders.

PART III: EQUITY CONTROLS IN CO-OP CONVERSIONS

The following passages are adapted from an article by Al Bonnett and Joel Rubenzahl entitled "Tenants' Guide to Cooperative Conversion" published by the California Department of Housing and Community Development and reprinted by the National Association of Housing Cooperatives. It is offered here for the benefit of tenant associations considering conversion to cooperatives. Some editing changes have been made.

Early in the conversion process, prospective members must decide whether to impose controls on equity in the cooperative. Without controls, a member's equity can accumulate according to inflation and housing market forces. With controls, the value of cooperative shares will remain relatively constant, enabling new families to purchase shares and be in the same income range as the initial members. This is in accordance with the third Principle of Cooperation, which states that "Shared capital should receive a strictly limited rate of interest."

The membership price is actually spent for purchase and start-up of the cooperative. When a member leaves, the cooperative typically does not have the money available to repurchase a member's share. The money must be supplied by the incoming member. In short, whatever equity one member takes out must be replaced by an incoming member.

Part of the reason low to middle income families look to cooperatives as a form of housing ownership is that they cannot afford single-family homes, which are likely to remain out of reach for most. Once the cooperative is established, however, the method of determining share value, as spelled out in the by-laws, will determine the income range of future cooperative members. This is true because the share price will on average determine the lower income limit of those able to afford the housing. If the share is allowed to rise along with the general market price increases, the housing will again be market-rate housing, much like conventional condominiums, and out of the reach of low, moderate, and many middle income families.

However, if the value of the share is strictly controlled, the purchase price and the cost of occupancy will be stable over the life of the cooperative. Establishing a cooperative on this basis is critical if lower income families and individuals are intended to be cooperative members during the life of the cooperative.

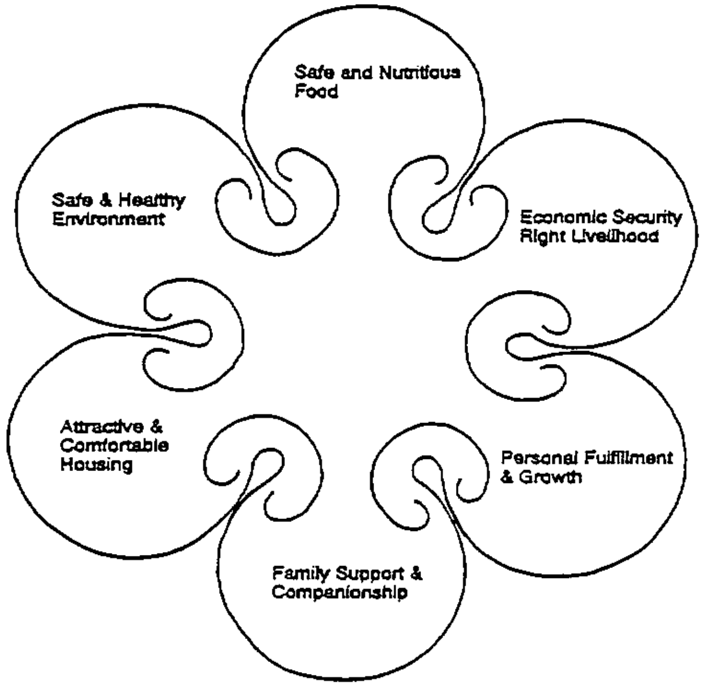


Figure 5.1 What People Need and Want in a Cooperative Community

In a limited-equity cooperative, the bulk of the equity accumulated by the cooperative is owned by the cooperative and not allowed to be paid out to the members. The equity can be used by the cooperative for the common good of the cooperative, however. The appliances can be upgraded for energy efficiency. Repairs and other improvements can be made to increase sustainability, and the co-op can even expand if the members desire.

The individual members will pay lower monthly housing costs, on average, if member equity is restricted. This lower average cost allows the individual members to save or use their money toward other family essentials.

Assume, for example, that the typical membership cost in a cooperative is $6,000. If the share is allowed to increase in value on a market basis, after five years its value will reflect generally inflationary increases in real estate value.

The membership represents a unit of housing. For our example, let us assume that the total value of the unit is $25,000. If real estate prices climb over the next five years at an annual rate of 8%, then the unit value in 1997 will be approximately $37,250. The $12,250 increase in value will be reflected in the unrestricted membership value. A family able to afford the new membership cost of $18,250 will have to have a much higher income than the family paying $6,000 five years earlier.

In the unrestricted situation, the incoming family will likely take a personal or bank loan to cover a portion of the membership cost in order to avoid such a large initial downpayment. If they borrow 50%, or $9,125, for a period of five years, paying 12% interest, their monthly payments will be $203. If the family is to pay a maximum of 25% of their income for housing costs, the additional payment will mean a required income of over $9,000 higher than that of the outgoing family. The $203 payment is in addition to the cooperative carrying charges (mortgage payment, operating expenses, utilities, etc.).

If the membership values are restricted, or in other words the cooperative is established on a limited-equity basis in California (no greater than 10% increase of share purchase price), then a new family with the same income as the outgoing family will be able to afford the cooperative membership fee and the monthly cooperative payments. The nature of the cooperative will not change as a result of economic factors under these circumstances.

Part I of this chapter was written by Lottie Cohen. Part II is a citation of the current law pertaining to LEHC's. Part III was adapted from an article by Al Bonnett and Joel Rubenzahl entitled "Tenants' Guide to Cooperative Conversion."

Chapter **6**

Intentional Communities: Lifestyles Based on Ideals

Today many people are questioning society's values, and asking what gives meaning to life. They bemoan the "loss of community" and are looking for ways to reintroduce it into their lives.

There are several options now available to the average person that satisfy at least the basic cravings. Many folks get involved with various civic or social change groups. Others get more deeply involved in the activities of their church. Still others create friendships and support networks in their neighborhoods. Those with the motivation to live their values "full time" often seek to join or create intentional communities.

An "intentional community" is a group of people who have chosen to live together with a common purpose, working cooperatively to create a lifestyle that reflects their shared core values. The people may live together in a rural place or a suburban or urban neighborhood, sharing a single residence or living in a cluster of dwellings.

This definition includes a wide variety of groups, including (but not limited to) communes, student cooperatives, land co-ops, cohousing groups, monasteries, and farming collectives. Although incredibly diverse in philosophy and lifestyle, each of these subgroups places a high priority on fostering a sense of community, the feeling of belonging and mutual support often hard to find in mainstream America.

Intentional communities are like people: you can categorize them on the basis of certain distinguishing characteristics, but no two are ever identical. Differences among them, whether gross or subtle, can be attributed to variations in philosophy, in mission or project emphasis, in behavioral norms, or in the personality and style of the leaders and the individual members. Each group is somehow unique.

A TIME-HONORED IDEA

The mainstream media often promote the popular myth that shared living began with the "hippie crash pads" of the 1960's and died with the advent of "yuppies" in the late 1970's and early 1980's. Nothing could be further from the truth.

Today there are literally thousands of groups, with hundreds of thousands of members, that live in intentional communities and extended families based on something other than blood ties. And this type of living has been around for thousands of years, not just decades.

It is well documented that early followers of Jesus banded together to live in community, simplifying their lives and sharing all that they owned: "And all that believed were together, and had all things common; and sold their possessions and goods, and parted them to all men, as every man had need." *Holy Bible*, King James Version, Acts 2:44-45. That tradition continues to this day, particularly through many inner-city Christian groups that live communally, pooling resources and efforts in their ministry to the homeless, the poor, and groups with other special needs.

Yet shared living goes back much farther than that, predating the development of agriculture many thousands of years ago. Early hunter-gatherers banded together in tribes, not just blood-related families, and depended on cooperation for their very survival.

The advent of the isolated nuclear family is, in fact, a fairly recent phenomenon, having evolved primarily with the advent of industrialization and more recently with the development of high-speed transportation. And as transportation has become cheaper and faster, we've also witnessed an increase in transience, and the demise of the traditional neighborhood.

ROOTS AND REALITIES

Although many contemporary community visions emphasize the creation of neighborhood and/or extended family ties, their philosophic roots are amazingly diverse, ranging from Christians, Quakers, and Eastern spiritualists to 1960's drop-outs, 1990's social change and social service activists, anarchists, psychologists, artists, back-to-the-land survivalists, on-to-the-future sci-fi aficionados, special needs self-helpers, and alternative lifestylers. The scope of their primary values is equally broad, including ecology, equality, appropriate technology, self-sufficiency, right livelihood, humanist psychology, creativity, spirituality, meditation, yoga, the provision of social and public service, and the pursuit of global peace.

However, even among groups that have consider ably honed their utopian vision and practices, none claims to have reached "perfection" amidst the fast-paced chaos of modern life. Communities draw their membership from society at large, and those members bring with them generations of social conditioning, often including the very attitudes, behaviors, and institutions prevalent in the broader society that communitarians seek alternatives to. Merely identifying a problem and expressing a desire to overcome it does not mean that a community has the perspective or skills needed to transcend it.

The problems communitarians see "out there" in the mainstream—greed, dishonesty, excessive ego, lack of self-esteem, factionalism, inadequate resources, poor communication skills, you name it—all too often manage to find a place in the cultures of intentional communities as well. What is encouraging about many communities, however, is their tendency to be open to new ideas, their willingness to be tolerant of other approaches, and their commitment to live in a way that reflects their idealism. Although some communities exist that are close-minded and bigoted, they're the exception. More often than not, people who choose to live in intentional communities also have parallel interests in ecology, personal growth, cooperative harmony, and peaceful social transformation.

SOME KEY ISSUES

Spirituality or religion, regardless of the specific sect or form, is probably the commonest inspiration for launching new communities. Such groups bear a striking resemblance to their centuries-old predecessors, in spite of current developments in technology, education, psychology, and theology. Many of North America's leading centers for the study of meditation and yoga were established by intentional communities based on the teachings of spiritual masters from the Far East.

Although some secular communities are isolationist in that they wish to escape the problems of the rest of the world by creating a life of self-sufficiency, simplicity, and serenity, more typically secular communities seek to implement bold visions of new social and economic models, which they hope can be replicated in ways that will lead to ecological and peaceful transformation of the planet.

Most intentional communities share a deep-felt concern about home, family, and neighborhood. Beyond the obvious purpose of creating an extended-family-like environment for raising a family (typically within a broader context of cooperation), many communities also afford the opportunity to leave doors unlocked at any time, day or night. For some, merely having that kind of security is reason enough to join.

Dozens of intentional communities across the United States, alarmed by rising student/teacher ratios and falling literacy rates in public schools, have opted to establish alternative schools. Many are utilizing intentional communities as a base of support for these new decentralized community-based education programs. Intentional communities comprise a sizeable chunk of the membership of the National Coalition of Alternative Community Schools (58 Schoolhouse Road, Summertown, Tennessee 38483), an organization of private schools, families, and individuals who share a commitment to create a new and empowering structure for education. Coalition members publish a quarterly newsletter and organize an annual spring conference for sharing resources and skills for social change. Other resources are the National Homeschool Association, Post Office Box 58746, Seattle, Washington 98138, and Children and Community Network, 14556 Little Greenhorn Road, Grass Valley, California 95945.

Other communities, usually smaller, have created rural homestead communities where they can pursue home schooling without fear of legal pressure from local school officials. Many state laws favorable to home schooling have been promoted, and sometimes initiated, by members of intentional communities who have also been active in expanding national awareness about home schooling as a viable educational option.

Another popular issue these days is ecology. A huge majority of contemporary communities, perhaps 90%, practice comprehensive recycling and composting. Many serve as model environments or teaching centers for sustainable agriculture and appropriate technology, featuring such concepts as permaculture, organic gardening, grey water systems, solar and wind power, and passive solar home design. Eco-Home, a small cooperative household in Los Angeles, is an inspiring model of how to live ecologically in an urban environment. "The Farm," a 25-year-old intentional community in Tennessee, has launched a wide range of environmentally-focused projects and businesses, including the development of advanced radiation-detection equipment, a solar electronics company, a solar car company, the Natural Rights Center (an environmental law project), and a publishing company that specializes in books about environmental issues, vegetarian cooking, natural health care, midwifery, Native Americans, children's stories, and pesticide-free gardening. Contact any of the various ecological projects at "The Farm" by writing the Natural Rights Center, Post Office Box 90, Summertown, Tennessee 38483.

In the late 1960's, a rash of new communities, influenced by the anti-war movement, the "sexual revolution," rock music, more permissive attitudes about drugs, and the popularization of Eastern religions, sprang up to create cooperative lifestyles based on sexual liberation, born-again Christianity, and everything in between. In effect, these often naively idealistic utopian experiments functioned as a pressure cooker for personal and collective growth. Although many of the 1960's groups folded during the creative but turbulent decade that followed, hundreds have survived into the 1990's. Having re-evaluated, restructured, and matured over the years, they are now thriving.

B.F. Skinner's book *Walden Two* (a futurist novel based on his theories of behavioral psychology) inspired the creation of at least a dozen communal experiments. Los Horcones, one such community near Sonora, Mexico, is today one of the world's foremost experiments in behaviorist studies.

THE FRANCHISE APPROACH

Some communities find a combination of philosophy and lifestyle that really enables them to thrive. Occasionally one will embark on a program of systematic colonization to spread its message and its influence.

During the Reformation, a group of German Anabaptists decided to pool their goods and unite in Christian brotherhood. Jakob Hutter became their leader five years later, in 1533. The community prospered, and subsequently cloned itself repeatedly. Today there are nearly 400 colonies of the Hutterian Brethren in Canada and the United States, as well as communities in South America and Europe.

When a Hutterian community reaches its optimum capacity (100-150 members), it acquires a new piece of land, builds a new set of structures (homes, schools, barns, etc.), then divides the population into two groups. One group stays at the original site, while the other moves on to the new site. Neighboring colonies support each other with backup labor and various resources, an approach that yields a very high ratio of success for the new colonies.

Each colony has common work and a common purpose, and most have an economic base of large-scale agriculture with an organizational structure resembling that of a producer or worker cooperative. They have been so successful in their endeavors that in the 1980's some of their neighbors initiated lawsuits to prevent Hutterites from acquiring more land, claiming that their communal economy amounted to "unfair competition." The Hutterites have retained many of their native customs, including dress, family structure, a simple lifestyle, and the German language. To many outsiders, Hutterites seem quite out of place when compared to their contemporary neighbors.

In contrast, members of the Emissaries of Divine Light, another spiritually-based network, manage to fit right in. The Emissaries, founded in the mid-1940's, have a network of twelve major communities plus a number of urban centers that span the globe. Their overall focus is directed toward achieving a more effective and creative life experience, developing spiritual awareness without rules or a specific belief system.

The Emissary lifestyle would be described by many as "upper middle class," and business oriented. Nuclear family units, though not mandated, are the norm. Emissaries pride themselves on being on good terms with their neighbors. One long-standing resident was elected mayor of a close-by town for 15 consecutive years. Members of their business staff are well respected, so much so that government tax officials in British Columbia regularly consult Emissary personnel before deciding on strategies for implementing new tax laws and regulations.

The connections between and among the communities in this network are maintained in many ways. Inspirational talks and special events are always recorded, and transcripts are kept on file at each Emissary center. Some events are recorded on video, and copies are distributed by mail. On a weekly basis, several centers link up via satellite for instantaneous transmission of related presentations originating from multiple locations. Most active members receive regular Emissary publications, some of which provide a network overview, while others document the work of special-interest subgroups.

For example, many of the major Emissary centers have agricultural operations that grow much of

the food consumed by residents and guests. Known as "stewardship farms," these separate operations are managed and staffed by members who regularly share ideas and information about long-term sustainable agriculture. This special interest group publishes a regular newsletter and organizes periodic conferences, planning meetings, and exchange visits.

NETWORK ALLIANCES

There is also growing interest among independent communities to be in closer contact with like-minded groups in their region and around the world. As a result, there's been a notable increase of activity in several decentralized regional and continental networks.

It's not just the mainstream that believed the myth that the intentional communities movement died by the early 1980's. Many community groups have suffered from a lack of contact and support due to their mistaken impression that they are among the few survivors of a bygone era. However, newly active alliances for the sharing of ideas, resources, and mutual support are gaining support and visibility, thereby enabling groups to learn from each others' mistakes as well as successes.

For instance, one network of more than 50 Catholic Worker Houses publishes a periodic newspaper and organizes occasional gatherings for the sharing of ideas, skills, rituals, friendship, and solidarity.

Another values-based network is the Fellowship for Intentional Community (FIC), a North American network created to promote shared living in whatever forms it may take. The Fellowship regularly handles hundreds of inquiries from seekers hoping to find a community to join, from communities looking for new members, from academics doing research, and from media people gathering material for stories.

Major FIC projects include the initiation of research to document the broad-based movement, publication of a thick *Directory of Intentional Communities*, a fledgling Speakers Bureau, and the organization of an International Celebration of Community.

To encourage participation in its work, the Fellowship rotates its semi-annual meetings among different regions of the country, seeking out host communities sympathetic to its mission. The FIC's core organizers, many of whom are leaders in their home communities, find these meetings a source of inspiration and support for their own "life's work," which, not surprisingly, is geared toward making the world a better place.

A third organization of note is the Federation of Egalitarian Communities (FEC), established to promote and develop democratically-run communities based on the concept of equality. FEC encourages the identification and elimination of the "isms" (racism, sexism, classism, ageism, etc.), and emphasizes such practices as non-violence, cooperation, ecology, and sustainability. Further, member communities are required to hold all land, labor, and other resources in common.

The FEC communities tax themselves $200 per year plus 1% of net revenues. They use this fund to finance joint recruitment campaigns, fundraising, and travel to meetings and between communities. They have also created a voluntary joint security fund for protection against the economic strain of large medical bills. This fund has now grown to about $100,000, and is used in part as a revolving loan fund that provides low-interest loans to projects and community businesses compatible with FEC values.

Member communities also participate in a labor exchange program, which allows residents of one community to visit another, receiving labor credit at home for work done away. This is especially handy when one community's peak workload occurs during another's off-season, and the labor flows back and forth when most appreciated. The exchange of personnel also offers a wonderful opportunity to take a mini-vacation, learn a new skill, make new friends, maintain old ones, and share insights about common experiences.

The Federation also aspires to document that acquired wisdom, making it available to the public for the cost of copying and postage. They have created a "Systems and Structures Package," a compilation of written documents on bylaws, membership agreements, property codes, behavior norms, labor and governance systems, and visitor policies (see Bibliography). Their goal here is to help new (and maybe even some not-so-new) communities ease through the struggles of creating appropriate structures, offering models for what to do when good will and best intentions are not enough.

A CONTEMPORARY WAVE

Historically, participation in shared living or intentional communities has come in cycles. One major wave came just ahead of the U.S. Civil War, its most notable community being Brook Farm in Massachusetts, which attracted such figures as Henry David Thoreau and Ralph Waldo Emerson. Another notable wave followed in the very late nineteenth century. Two "Single Tax Colonies," based on the economic philosophy of Henry George, are still in existence: Arden, established in 1900 in Delaware; and Fairhope, established in 1894 in Alabama. Other waves preceded World War I and came during the Great Depression. The most recent wave came out of the counter-culture in the 1960's.

We're now experiencing a new wave. The most recent *Directory of Intentional Communities* (1991) documents more than 50 new communities started during the past five years, and that's merely the tip of the iceberg. The *Directory* also lists 160 that have survived at least a decade, and 80 others that have been in existence for more than two decades.

In their book *Builders of the Dawn: Community Lifestyles in a Changing World* (1985), Corrine McLaughlin and Gordon Davidson refer to some modern-day intentional communities as "research and development units for society, experimenting with alternative energy, organic agriculture, holistic health, self-governance, and new forms of conflict resolution. They are pioneering solutions to global problems, like pollution, energy shortages, inflation, and rising health costs."

It is apparent that people, dissatisfied with the gap between their ideals and the current reality, will keep trying out new approaches until they find one that solves most of the problems they see in the predominant culture. History suggests that many of these solutions will find their way into the mainstream culture, as have pre-schools and kindergartens, free libraries, and soy bean cultivation—all innovations initially started in small intentional communities.

An exciting feature of today's intentional communities movement is that its members are actively seeking to identify problems, working to find solutions, and trying to implement new insights in their daily lives. Many contemporary groups are exploring ways to achieve a true sense of community while maintaining a balance between privacy and cooperation, a concept reasonably compatible with mainstream values today. By emphasizing common concerns rather than differences in our lifestyle choices\ many of these innovations will more quickly find their way across cultural lines.

This chapter was written by Geoph Kozeny, founder of the Community Catalyst Project, co-editor of the Directory of Intentional Communities, *and board member of the Fellowship of Intentional Communities.*

Chapter 7

Live/Work Spaces

Traditionally we fragment our land uses so that people can neither work where they live nor live where they work. Planning policies often require the separation of our land uses, which results in a system dependent on cars. Although the intent of such policies may be to enhance the quality of life, in actual practice, driving to work is dangerous, time consuming, stressful, polluting, expensive, and altogether impractical. We dream of avoiding the drawn-out commute. Help is on the way in the form of new zoning laws, telecommuting, and live/work communities.

This chapter presents four live/work models of cooperative-style housing. They are:

1. Cabrillo Village, where economically related workers built cooperatively owned housing near their work places.

2. Glen Ivy, an intentional community whose social and economic structure makes it significantly self-reliant.

3. GoHomes, a housing development built by a private developer that offers multi-unit structures functionally designed for live/work purchasers.

4. Emeryville Artists' Cooperative, an arrangement in which artists and other persons with similar live/work needs have developed cooperatively-owned and managed "lofts" in an urban-renewal area.

HOUSING ADJACENT TO WORK PLACE—CABRILLO VILLAGE, SATICOY, CALIFORNIA

There are both rural and urban models. For many rural communities, agricultural and other cottage industries offer a means of earning a livelihood close to home. The development of Cabrillo Village, a limited-equity housing co-op, evolved out of a decade-long struggle of low income Latino farmworkers who faced eviction from their camp. Through a lengthy self-empowerment process along with the help of several sympathetic community development professionals, they purchased and rehabilitated their 80 run down cottages into comfortable modern homes and went on to develop 70 more units on adjacent land for other rural farmworker and low income families.

In the process, many of their members moved out of farm work into construction trades. Still others moved into new livelihoods in the tile factory, food co-op, and cabinet shop that the group developed. Ultimately, the group's nonprofit umbrella, the Cabrillo Economic Development Corporation, developed 821 units of affordable housing throughout Ventura County and continues to be an important nonprofit developer in the area.

SELF-RELIANT INTENTIONAL COMMUNITIES—GLEN IVY (HOT SPRINGS)

Glen Ivy is a rural, significantly self-reliant community in Corona, California. Established in 1977, the community functions as the Southwest Regional Center of the Emissaries of Divine Light, a spiritual education community where people can experience the "Art of Living." Shared living is not an end in itself for the Emissaries, but is used to facilitate a process whereby people can achieve a deeper professional and spiritual identity. The permanent residents are charged with the task of bringing spiritual harmony to everyday duties and relationships. Such harmonization with the currents of life is seen as essential for personal, as well as global, fulfillment. Glen Ivy is internationally renowned for its public hot springs resort, spa, and vivacious hospitality. Approximately 85 people of all ages make Glen Ivy their home and livelihood. As a division of a worldwide intentional community administering a variety of successful businesses, members of Glen Ivy have the opportunity to live and work in many other similar communities.

Often intentional communities are specifically created as live/work environments where virtually the entire membership is involved in one or a few enterprises. Some groups sell merchandise to national markets through mail-order organizations such as Co-op America. Often, such marketing organizations try to ensure that all of the products offered in their catalogs come from groups that are socially and environmentally responsible, and that practice a spirit of cooperation in the work place. As readers will discover through exploring resources on intentional communities, significant self-reliance is often achieved through local cooperatively owned or managed businesses.

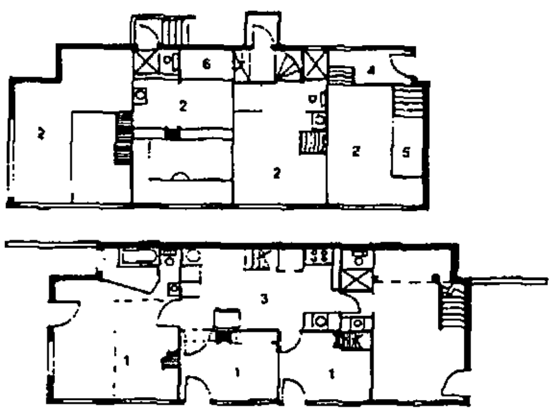
NEW CONSTRUCTION SERVING LIVE/WORK FUNCTION—GOHOMES

In contrast, there are a growing number of developers building live/work structures that allow for artists, telecommuters, and other business persons to operate out of a specially designed space in their homes. The attached multi-unit dwellings may be legally formed as condominiums or cooperatives, but other forms of ownership are practiced as well. One architect, Ted Smith, is building cooperative GoHomes in the San Diego area. His innovations are described in *New Households, New Housing* (1989) and are summarized below.

The basic model remains constant—affordable living and working spaces that support privacy as well as community and that have various sizes and shapes, where ceiling height is as important as amount of floor space. Variations are numerous, including the amount of shared space and the integration of GoHomes with other types of dwelling units. A combination of GoHomes and row houses is planned for downtown San Diego.

In Smith's original 4-person GoHome, each unit has two levels—the second a loft space—and each has its own very small bathroom. Most of the units have a little less than 500 square feet of floor space on the two levels. Each unit has two entrances from outside, one for professional use and one for residential use, and one entrance each within the home to a shared kitchen. The shared kitchen is what allowed Smith to build the GoHomes in compliance with current zoning; they are considered single-family homes, since having a single kitchen is what defines a single-family home.

Smith has tried to maximize the individuality and the independence of the units and to limit the connectedness between them. In his observations of house sharing among his friends, he noticed how much they prized their privacy—to be able to come and go without passing through common areas and to eat in their own spaces. Therefore, the kitchen is primarily utilitarian.



1. Lower level of private unit
2. Upper level of private unit
3. Shared kitchen
4. Landing
5. Loft bed
6. Built-in bed

Figure 7.1 Floor plan of 4-unit GoHome with common kitchen.

It was not Smith's intent to be particularly innovative or start a new type of housing. He simply wanted to provide affordable housing, with work spaces, within walking distance of the beach, which could meet the local zoning requirements for a single-family house. The building is cooperatively-owned by shareholders, who each paid $10,000 per share and then paid for or did most of their own interior and facade work. Each shareholder pays $350 a month in carrying costs. Of the four original residents, one is a professional musician who gives music lessons, another uses his work space for drafting, a third does stained-glass work, and a fourth is a computer buff.

URBAN ARTISTS' COOPERATIVE—EMERYVILLE

Many artists have joined to create collaborative live/work spaces in older industrial buildings in Emeryville, San Francisco, and Los Angeles. In Emeryville, artists own two large warehouses, which provide affordable spaces for 500 members. In San Francisco, Arteau Artists have formed a leasing co-op that leases and manages their building. In downtown Los Angeles, old red brick factories were converted by a nonprofit developer into the Santa Fe Colony.

Until recently, building and safety laws prohibited residential use of commercial/industrial structures and prohibited commercial enterprises from operating in residential communities. These restrictions have been substantially removed in Los Angeles, Emeryville, Santa Monica, and San Francisco. Enabling ordinances such as Artist in Residence/Conditional Use Category, Mixed-Use Ordinance, and Home Occupation give artists and others who wish to live and work in the same spaces new legal possibilities. These residences are included in the volumes noted below. Although artists have been the forerunners in advocating these changes, there has been increased demand for live/work spaces from others.

California Lawyers for the Arts, a nonprofit technical assistance organization, has published two volumes describing live/work spaces, including extensive technical, legal and resource information. In addition to these volumes, *Live/Work/LA* (1990) and *Art House Live/Work Development Seminar* (1992), California Lawyers for the Arts oversees a housing hot line (see Resource Directory). These volumes include copies of the new live/work ordinances.

For example, the pertinent part of Los Angeles Municipal Code section 12.24(B)(1)(dd) provides not only for the approval of mixed commercial/residential use developments, but also ensures that 20% of the units will maintain long-term affordability for low-income households:

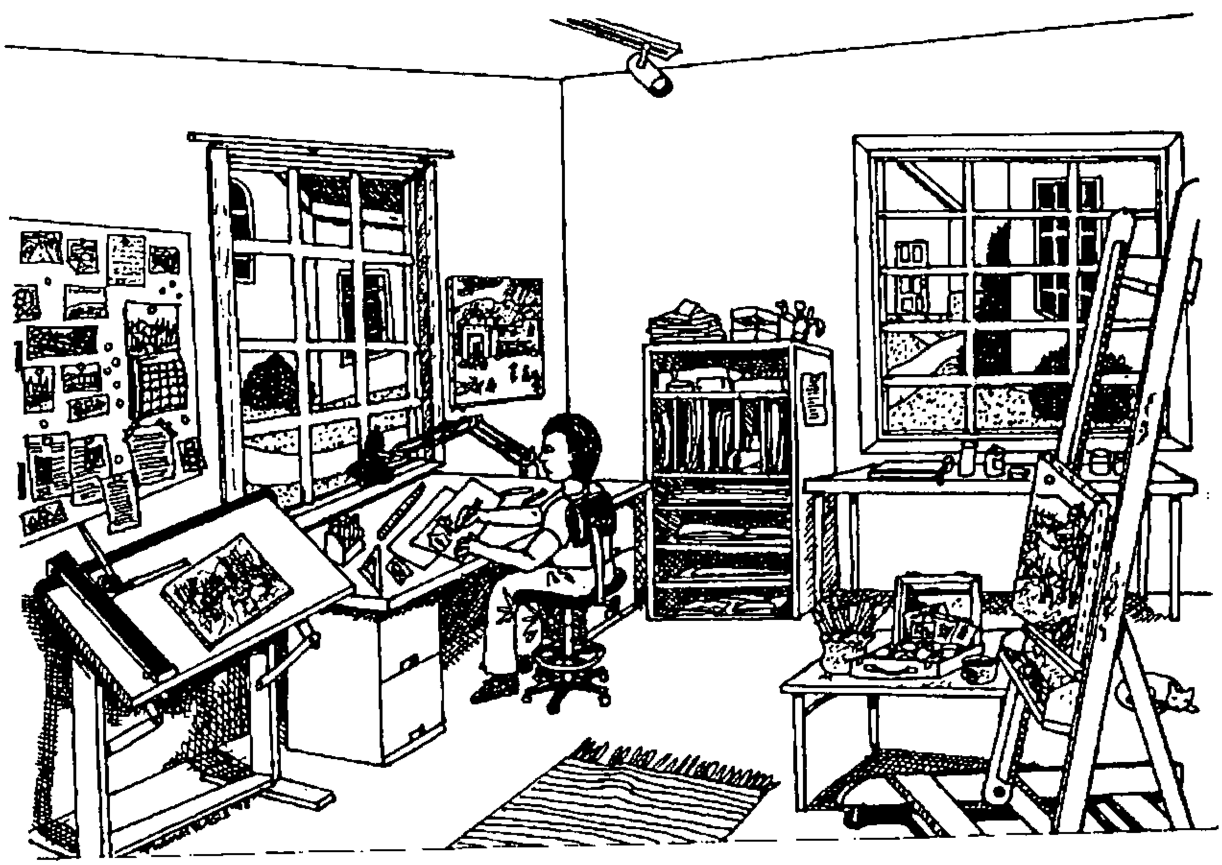
(d) that the developer has agreed, pursuant to Government code Section 65915, to construct the development with 20 percent or more of the residential units reserved for occupancy by lower income households, as defined by Section 50079.5 of the Health and Safety Code, including elderly persons and families, as defined by Section 50067 of the Health and Safety Code, who meet the criteria for lower income households; and

(e) that the developer has also agreed to ensure the continued affordability of all reserved lower income units for a minimum of 30 years; and

(f) that the developer has also agreed to ensure that the construction and amenities provided for any dwelling unit reserved pursuant to this paragraph shall be comparable to other dwelling units in the development including the average number of bedrooms and bathrooms per dwelling unit.

The potential for live/work cooperatives is great for many urban artists and professionals.

This chapter was written by Lottie Cohen.



Chapter **8**

Mobile Homes

OVERVIEW

The modern mobile home resembles neither the old trailers used for overnight camping nor the spiffy recreational vehicles (RV's) used by travelers nowadays. While mobile homes are registered, taxed, and financed as vehicles, the construction and operation of mobile home parks are regulated by the California Department of Housing and Community Development, and the sale of mobile homes is controlled by real estate law. For a complete overview of the law on mobile home sales, mobile home park management, and the registration of and security interests in mobile homes, see Miller and Starr, *Real Estate*, 2nd ed., 1990, ch. 27, Mobile Homes, pp. 651-722.

Although some mobile home parks are planned and developed from their inception as cooperatives, most mobile home park cooperatives are formed as a result of conversions. The former rental tenants buy the land from the owner and convert their rental pads (the land under the coaches) to real estate owned either by a limited-equity cooperative or a stock cooperative.

When establishing the cooperative, residents form a nonprofit cooperative corporation, which owns the land and community buildings, including the spaces on which the individually owned mobile homes are located. Each individual cooperative member buys a membership share in the corporation, continues to privately own their individual mobile home, and, as a co-op member, participates in the management of the property and improvements. Each member pays their proportional share of the operating expenses and the mortgage. Every member can deduct their share of mortgage interest payments from federal taxes.

It should be noted that when a mobile home park is a limited-equity cooperative, the equity restriction refers only to the member's share in the ownership of the park and not to the sale of the coach.

CONVERSIONS

Converting Mobile Home Parks Into Cooperatives, published by the National Cooperative Bank (NCB, 1989), outlines the following seven steps to follow when converting a mobile home park to a cooperative:

1. Prepare a plan for the prospective conversion and develop support among existing residents.

2. Form a residents' group.

3. Raise seed money.

4. Establish the feasibility of converting the park.

5. Inspect the park, and, if necessary, prepare a rehabilitation plan as part of the overall financial package.