Spring/Summer 2022

DC Cooperative Housing Coalition

Helping Co-ops Flourish

1920 ★ 2020

Celebrating 100 Years of Co-ops in DC

A coalition representing cooperative housing units in Washington, DC since 1984

Energy Benchmarking Seminar Held

The Coalition hosted an important seminar for members in November to review the D.C. Department of Energy's Energy Benchmarking Program. Katie Bergfeld and Lindsey Falasca from DDOE gave an informative presentation on what cooperatives need to know about the program.

DEPARTMENT OF ENERGY & ENVIRONMENT

GOVERNMENT OF THE DISTRICT OF COLUMBIA

Energy benchmarking means tracking a building's energy and water use and using a standard metric to compare the building's performance against past performance and to its peers nationwide. These comparisons have been shown to drive energy efficiency upgrades and increase occupancy rates and property values.

Benchmarking requirements were originally signed into law through the Clean and Affordable Energy Act of 2008 (CAEA). The Clean Energy DC Omnibus Act of 2018 expanded the benchmarking requirements to cover smaller buildings and added data verification requirements.

Under these mandates, building owners are required to track the energy and water usage for their building(s) using the US EPA's ENERGY STAR® Portfolio Manager and report that data to DOEE on an annual basis. The annual reporting deadline is April 1st of each year for the previous calendar year's energy and water consumption. Building owners are required to have their benchmarking data verified by a third party every three years, starting in 2024 (with the calendar year 2023 data).

DDOE has set up a web portal with all the details Knowledgebase - BEAM Helpdesk (beam-portal.org). Slides from the seminar are attached.

WE WANT YOUR SEMINAR IDEAS!

The Coalition has hosted many seminars and expert speaker sessions over the years covering diverse topics such as financing big projects, assessing building structural conditions and how to handle the death of a member. We see these seminars as an important way for all of us to share ideas and common experiences. We want to hear from you on what seminar topics you would like to see covered. Please get in touch by emailing us at DCCoopCoalition@gmail.com

---

Why Do We Have Recognition Agreements?

The Coalition gets a lot of questions about recognition agreements. We asked our General Counsel, Joe Douglass, to help everyone understand what they are --

By: Joseph D. Douglass, Whiteford, Taylor & Preston LLP

A recognition agreement makes it possible for cooperative members to get purchase financing.

When someone buys a house or a condominium unit, they are buying real estate (the legal term is "real property"), and they can finance the purchase with a mortgage loan. If they don't make their mortgage payments, the lender can foreclose, take the property away from them, and sell it to pay off the loan.

This legal protection for the lender will be recorded in the land records at the time the loan is made, to establish the lender's "security interest" in the property as a matter of public record. That gives the lender priority over other creditors who may have claims against the owner.

When someone buys into a coop, they are not buying real property. Instead, they are buying corporate shares, or (in a nonstock coop) an ownership contract (which can be called an equity contract, or something else, but they really are the same). Since they are not buying real property, they can't finance the purchase with a mortgage loan, and the loan transaction will not be recorded in the land records.

Instead, they will have to get a "share loan" from a bank or other financial institution. As a condition of making a share loan, the lender will require the member and the cooperative corporation to sign a recognition agreement, to protect the lender in case the member defaults on the loan. A recognition agreement also gives the cooperative certain protection if the member stops paying coop fees.

In a recognition agreement, the cooperative corporation typically:

- Agrees to give the lender the member's original proprietary documents (e.g., stock certificate, proprietary lease or ownership contract) to hold as collateral for the share loan;
- Certifies that those proprietary documents are not subject to any other share loans;
- Certifies that the member is not in default of any obligations to the cooperative;
- Agrees to notify the lender whenever certain things happen; and
- Recognizes (hence the name) the lender's priority claim to collect the loan if the member defaults.

In the recognition agreement, the lender will recognize that, If the member does not pay coop fees, the cooperative corporation can sell the member's ownership interest and collect what is owed out of the sale proceeds. Likewise, the cooperative will recognize that, if the member does not pay the share loan, the lender can sell the member's ownership interest and collect what is owed out of the sale proceeds.

Since both the lender and the cooperative want to get paid out of the same sale proceeds, the recognition agreement helps to prevent a train wreck between the lender and the cooperative. The agreement will state that the lender has priority in collecting its money out of the sale proceeds, but usually will give certain limited priority to the cooperative.

Under this arrangement, before the lender gets anything, a cooperative may be allowed to collect: (i) unpaid amounts owed by the member for the cooperative's underlying mortgage payments, (ii) unpaid amounts owed by the member for the cooperative's real property taxes, and (iii) up to 3 months of the member's other coop fees. After that, the lender gets the rest. If there is any money left after the lender collects its costs and remaining loan balance, the remainder will go back to the defaulting member, or may be claimed by the member's other creditors.

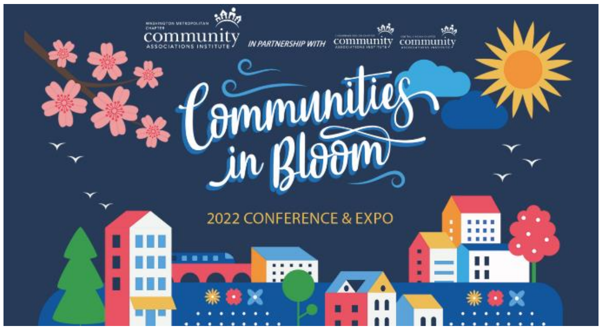
The recognition agreement will be signed by the member, the lender and a representative of the cooperative corporation, so that everyone involved agrees about how all of this is going to work.

Before recognition agreements became common (beginning around the 1970's) finding financing for a coop purchase could be very difficult, and the loan terms and interest rates were not nearly as favorable as those for mortgage loans. With the advent of recognition agreements, lenders became more willing to make share loans, and purchase financing for coops became easier and less expensive.

Joe Douglass is a partner in the firm of Whiteford, Taylor & Preston, LLP. He serves as legal counsel to the DC Cooperative Housing Coalition and has represented cooperatives and condominium associations for almost 40 years.

COALITION EXHIBITS AT CAI EXPO

Our mantra is to **Help Cooperatives Flourish** and that fit with this year's Community Associations Institute Expo theme of Communities in Bloom. We had a table exhibit again this year at the first in-person expo in two years held March 25-26 at the Walter E. Washington Convention Center. We were pleased to meet with fans of cooperatives, meet vendor exhibitors and take part in the many valuable education seminars CAI offers. Topics covered in this year's sessions included an in-depth examination of reserve studies, realistic budgeting and a timely seminar on building structural safety. We hope you'll join us for the Expo in 2023!



BOARD OF DIRECTORS

President - Russ Rader, Westmoreland 60 units

Vice President - Katie Wilson, Cathedral Avenue 145 units

Secretary - Art Leabman, 1870 Wyoming Avenue 28 units

Treasurer - Ray Olson, River Park 518 units

Directors

Matt Buzby, Broadmoor 194 units

Fred Dyda, Tilden Gardens 170 units

Loretta Glaze Elliott, Shoreham West 60 units

Andy Litsky, Tiber Island 389 units

Stephen McKevitt, Beverly Court 39 units

Karen Jones, Harbour Square 3020 Tilden Street 21 units

Counsel

Joseph Douglass

Whiteford, Taylor & Preston, LLP

1800 M Street NW, Suite 450N

202-659-6779

Administrative Assistant

N. Blake Jones

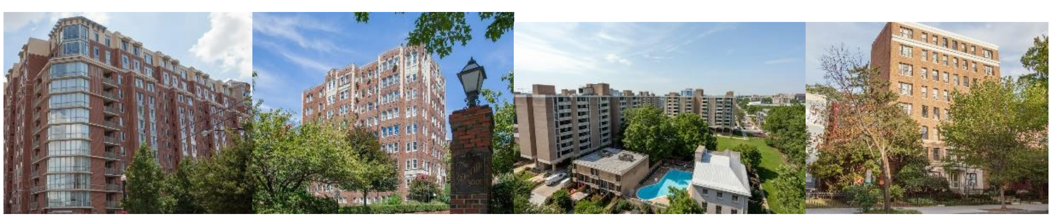
404-210-0799

DCCoopCoalition@gmail.com

About us

The D.C. Cooperative Housing Coalition exists to advance the common interests of cooperative housing associations in the District of Columbia and promote cooperative housing as a desirable form of home ownership. It is therefore both an advocacy organization that articulates the interests of members before government officials and regulatory agencies and a service organization that provides information and education to members.

The Coalition grew out of an ad hoc group of District cooperatives that formed in response to a judicial ruling that had cast a cloud over many cooperatives by banning proportionate voting. By marshaling the forces of more than 3,000 units, the ad hoc group persuaded the D.C. City Council to resolve the matter. Recognizing the importance to the cooperative housing community of speaking in a single voice and maintaining the ability to respond quickly and knowledgeably to matters affecting cooperative housing, the ad hoc group decided to form a permanent organization. The Coalition was established in 1984 and was incorporated as the DC/CHC, Inc., a nonprofit organization in the District of Columbia, in 1993.



Spring/Summer 2022

FREE Member Profile Page

No co-op website? No problem: Get your co-op's free webpage. See what you're missing at:

Members - DC Cooperative Housing Coalition | DC Cooperative Housing Coalition (coopsdc.org)

The place to find a service provider:

Service Providers - DC Cooperative Housing Coalition | DC Cooperative Housing Coalition (coopsdc.org)

Support those who support the Coalition and the District's market-rate cooperative housing community.

FREE download

Everything you need to know about co-ops!

Co-ops 101: Cooperative Housing Ownership in Washington, DC (coopsdc.org)