

Co-op Coalition Survey: Rental-Sublet Restrictions (8-2023)

16 co-ops responded.

Sent: Tuesday, August 1, 2023 at 03:24:00 PM EDT

Subject: CO-OP SURVEY: RENTAL/SUBLET RESTRICTIONS II (REP) (DUE 8-15)

DC Cooperative Housing Coalition conducted a survey in 2019 on Subletting/Rental Restrictions and another in 2022 on Sublet Exceptions. A coalition member has a specific rental restriction-- their cooperative ownership documents don't allow an owner to rent/sublet their unit if it's owned by a trust -- and they want to know if this restriction is applied by other cooperative apartments, and if so, why. Please respond even if the answer is "no". Please reply by Tuesday, August 15, 2023.

Thanks in advance for helping another Coalition member. The two-part question follows:

Does your cooperative incorporate the restriction that an owner may not rent/sublet their unit if it is owned by a trust? If so, why?

Best regards,

Janet Sten, Director

DC Cooperative Housing Coalition

www.CoopsDC.org

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<40 units	There is only one unit that has been transferred to a living trust. The provisions restrict occupancy to the Grantor to the trust (who is also the trustee). The terms were negotiated with our legal counsel several years ago and I cannot speak particularly to the rationale for the terms. The cooperative has other restrictions on subleasing that prohibit the shareholder from unfettered authorization to sublease the unit.
<40 units	Although we have restrictions on sublets, they apply to all shareholders without distinction.
<40 units	Our Bylaws and House Rules do not impose that particular restriction.
<40) units	No.

40-70 units	<p>We would not allow subleasing (our term for rent/sublet) of an apartment that has been transferred to a trust. Our Bylaws define two classes of membership; a trust does not meet the requirement that a Resident Member must be a natural person and so would be considered an Equity Member without occupancy rights similar to an estate or a beneficiary designated in a will.</p> <p>We would allow transfer to an end-of-life trust to avoid probate, with the requirement that the transferor must continue to occupy the apartment during their lifetime. Shares transferred into trust and subsequently transferred to a beneficiary do not circumvent our Cooperative's approval process for occupancy rights; the beneficiary must be approved by the Board in writing in the same way as any applicant to purchase. Our Board may terminate an Ownership Contract (includes both ownership and occupancy rights) if a transfer is made without Board approval.</p> <p>Has the cooperative asking the question reviewed their own Bylaws and consulted legal counsel if unclear?</p>
40-70 units	We do not have any such restriction at our cooperative. Our rental rules apply the same way to all forms of ownership.
40-70 units	Our rules do not mention trusts, but they do state that you must own an apartment for at least a year before you can lease it, and then you can lease it for no more than one year, in six-month increments, subject to Board approval of the renter. The only exception is in the case of "a temporary job-related absence outside the District of Columbia metropolitan area," for no longer than 5 years.
40-70 units	Our cooperative permits a shareholder to put their proprietary lease and stock into a revocable trust (but not an irrevocable trust) and requires the grantor of the trust to continue to reside in the apartment. It thus bars subleasing of apartments in a trust. That policy is based on advice from our counsel. However, we have developed a draft revision to our house rules on subletting that would permit a grantor of a revocable trust, acting as trustee, to sublet the apartment, with the Board's approval, on the same basis as other shareholders who do not have a trust. That proposal is in process and has not yet been adopted. The reason for the proposed change is that, as acknowledged by our counsel, the prohibition of a sublease by a revocable trust was not required by law, but simply reflected the need to maintain a majority of apartments as owner-occupied for purposes of D.C. tax law, and we generally limit the number of apartments that are subleased to 5 out of 52 apartments. Our current thinking is that, given that limitation, there is no reason to flatly bar shareholders who happen to place their apartment in a revocable trust from subletting their apartment.
40-70 units	<p>No.</p> <p>However, we require every shareholder to have lived in the unit for at least two years prior to a request for permission to rent, and we only approve rental for a MAXIMUM of two years and only in cases where the owner specifically states an acceptable reason for absence and their firm intention to return to the building. This policy applies to individuals, family trusts or any other legal form of ownership that meets board approval.</p>
40-70 units	No
100-200 units	Our Cooperative restricts subleases. The restrictions apply to all shareholders, including trusts. We generally do not inquire into internal family arrangements under which the trust-shareholder makes the unit available to immediate family members.
100-200 units	We do not have such a restriction.

100-200 units	Our cooperative does not have that specific restriction. However our current sublet policy is very restrictive to start with.
>300 units	We only require new owners to Homestead for the first two years after purchase. They can then rent their unit for a maximum of four years. It doesn't matter if the unit is owned under a trust.
>300 units	No
>300 units	We don't restrict trusts from renting a unit.